GOVERNMENT OF INDIA,

LEGISLATIVE DEPARTMENT

THE PANJAB CODE:

CONSISTING OF

THE BENGAL REGULATIONS

AND

LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE PANJAB,

RULES FOR THE CONSERVANCY OF FORESTS,

AND

REGULATIONS MADE UNDER THE THIRTY-THIRD OF VICTORIA, CAP. 3.

CALCUTTA
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING
1878.

CALCUTTA:
PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING
8, HASTINGS STREET

PREFACE.

THIS, the Panjáb Code, is published under the authority of the Government of India, and contains, first, the unrepealed Bengal Regulations in force in the Panjáb as modified by the Panjáb Laws Act, IV of 1872; secondly, the unrepealed local Acts of the Governor General in Council in force in that Province; thirdly, certain Rules for the Conservancy of forests, which are held to have the force of law, and, fourthly, the Regulations for certain Districts in the Panjáb made under the thirty-third of Victoria, cap. 3.

The Regulations printed in the first part of the present volume are taken from Clarke's edition of the Bengal Regulations published in 1854, under the authority of the Court of Directors of the East India Company; the local Acts and the Frontier Regulations from the official copies of the Acts of the Supreme Council and of the Regulations made under 33 Vic., cap. 3, preserved in the Legislative Department.

The only changes made in reprinting are the following :—

(*a*). Repealed portions of Regulations and Acts have been omitted

(*b*). Where an Act directs that a section, a clause or words be inserted in a former Regulation or Act, in re-printing the former Regulation or Act, the insertion has been made.

(*c*). Where one Regulation or Act refers to another, and such reference is directed by a subsequent Act to be read as if made to the latter Act, the number, year and title of the latter Act have, as a rule, been substituted in the text.

(*d*) Arabic numerals have been substituted for the Roman numerals used in the Regulations and the earlier Acts to denote the section-numbers.

(*e*). Words belonging to oriental languages have been uniformly spelt.

(*f*). Lengthy sections have sometimes been divided into clauses and paragraphs.

The Registrar, Legislative Department, is responsible for the correct printing of unaltered matter.

W. S.

SIMLA,
The 30th April 1878.

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THE PANJÁB CODE.

PART I:

THE BENGAL REGULATIONS IN FORCE IN THE PANJÁB.

REGULATION I OF 1798.

Passed on the 9th of January 1798.

SECRETARIAT LIBRARY

A Regulation to prevent fraud and injustice in conditional sales of land under deeds of bai-bil-wafa or other deeds of the same nature.[a]

Preamble.

1. It has been long a prevalent practice in the Province of Bihár to borrow money on the mortgage and conditional sale of landed property, under a stipulation that, if the sum borrowed be not repaid (with or without interest) by a fixed period, the sale shall become absolute. This species of transfer has, in the above Province, been usually denominated bai-bil-wafa; and the same transaction is common in Bengal, under an instrument termed kat-kabála.

It doubtless exists also under deeds of the above or similar denominations, in Orissa and Benares: and since the promulgation of the rules respecting interest contained in Regulation XV. 1793,[b] it has become more prevalent; particularly in the Province of Bihár, wherein instances have occurred in which persons lending money on bai-bil-wafa, in order to render the sale absolute, and thereby possess themselves of the landed property of the borrower, have denied the tender or evaded receiving payment of the money due to them within the period limited for the discharge of it.

In such cases, the proof of the tender falls on the borrower; and if he fail in the proof of it for want of legal evidence, he is liable to lose his estate.

It is necessary therefore for the security of the borrower, in such transactions, that he should have the means of establishing before a Court of Judicature his having tendered, or being ready to pay, within the stipulated period,

[a] Declared to be in force in the Panjáb, except such parts as relate to interest, Act No. IV of 1872, schedule I.

[b] Repealed by Act No. VIII of 1868.

the amount due from him to the lender; who, if he mean to act fairly, will also derive a benefit from a clear rule being laid down, whereby it may be readily ascertained whether the borrower was willing to redeem his property by the payment of the money lent upon it within the period agreed upon between the parties, or whether, from his having omitted to perform the conditions of such redemption, the sale is become absolute and the property included therein finally transferred to the lender.

For the above purpose, and for the prevention of other abuses in the transactions referred to, the Governor General in Council has passed the following rules, to be considered in force in the Provinces of Bengal, Bihár, Orissa and Benares, from the date of the receipt of this Regulation by the several Courts respectively.

Procedure for borrower of money on conditional sale of land who desires to redeem it by paying money lent.

2. In all instances of the loan of money on bai-bil-wafa, or on the conditional sale of landed property, as explained in the preamble to this Regulation, however denominated, the borrower, who may be desirous to redeem his land by the payment of the money lent upon it, with any interest due thereon, within the stipulated period, is at liberty, on or before the date stipulated, either to tender and pay to the lender the amount due to him, taking such precautions as he may think necessary to establish such tender and payment, if evaded or denied, or without any tender to the lender, to deposit the amount due to him, on or before the stipulated date, in the Díwání Adálat of the city or zila in which the land may be situated; and the Judge receiving the same shall furnish the party with a written receipt for the amount, specifying on what date, and for what purpose, such deposit may have been made.

He shall also at the same time cause a written notice of such deposit to be delivered to the lender; and on the application of the latter, and his surrender of the conditional bill of sale, or showing satisfactory cause why it cannot be surrendered, shall pay him the amount deposited, and take his acknowledgment, to remain among the records of the Court.

That there may be no doubt to what amount the deposit in question is to be made, it is required to be as follows:—

When the lender has not obtained possession of the lands, the deposit is to be the principal sum lent, with the stipulated interest thereon, not exceeding the legal rate of twelve per cent. per annum; or if interest be payable and no rate has been stipulated, with interest at the established rate of twelve per cent.; but if the lender has held possession of the land, the principal sum borrowed only need be deposited, leaving the interest to be settled on an adjustment of the lender's receipts and disbursements during the period he has been in possession.

In either case, a deposit, made as above required, shall be considered to preserve to the borrower his full right of redemption; and if the land be in the possession of the lender, shall entitle him to demand the immediate recovery thereof, subject to the adjustment of accounts specified in the following section.

Provided however that if the borrower in any case shall deposit a less sum than above required, alleging that the sum so deposited is the total amount due to the lender for principal and interest, after deducting the proceeds of the lands in his possession, or otherwise, such deposit shall be received, and notice given to the lender as above directed; and if the amount so deposited be admitted by the lender, or be established, on investigation, to be the total amount due to him, the right of redemption shall be considered to have been fully preserved to the borrower, who will not however in such cases be entitled to the recovery of his lands, until it be admitted or established that he has paid the full amount due from him.

When lender has possessed land, and adjustment of accounts is necessary, he is to account for proceeds of estate.

3. In all instances wherein the lender on a bai-bil-wafa, or similar conditional sale, may have been put in possession of the land, and an adjustment of accounts may consequently become necessary between him and the borrower, the lender is to account to the borrower for the proceeds of the estate whilst in his possession, on the principles prescribed with regard to mortgages and interest in Regulation XV. 1793,[a] as far as the same may be applicable to the nature of the case.

But such part of section 10 of the above Regulation as directs that the mortgages therein referred to are to be considered as cancelled and redeemed, whenever the principal sum, with the simple interest due upon it, shall have been realized from the usufruct of the mortgaged property, or otherwise liquidated by the mortgagee, being inapplicable to the conditional sales referred to in this Regulation, it is hereby declared not to apply thereto.

Tips not to be considered legal tender unless accepted by lender.

4. A tip for the repayment of money lent on the conditional sales referred to in this Regulation shall not be considered a legal tender, unless accepted as such by the lender; the proof of which acceptance shall be the lender's giving up the bill of sale, or giving a written acknowledgment that he has received back the money lent by him.

Regulation not to alter contract between parties.

5. Nothing in this Regulation being intended to alter the terms of contract settled between the parties in the transactions to which it refers (illegal interest excepted), the several provisions in it are to be construed accordingly; and any question of right between the parties is to be regularly brought before and determined by the Courts of Civil Justice.

[a] Repealed by Act No. VIII of 1868.

REGULATION X OF 1804.

Passed on the 14th of December 1804.

A Regulation for declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-Martial.[a]

1. WHEREAS, during wars in which the British Government has been engaged against certain of the Native Powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government; and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any Power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the Government of the Presidency of Fort William, the Governor General in Council should declare and establish martial law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms, in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified, the following Regulation has been enacted by the Governor General in Council, to be in force throughout the British territories immediately subject to the Government of the Presidency of Fort William, from the date of its promulgation.

Power in time of war to suspend functions of ordinary criminal Courts, and establish martial law.

2. The Governor General in Council is hereby declared to be empowered to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary criminal Courts of Judicature, within any zila, district, city or other place, within any part of the British territories subject to the Government of the Presidency of Fort William, and to establish martial law therein, for any period of time while the British Government in India shall be engaged in war with any

[a] Declared to be in force in the Panjáb, so far as it is not modified by Act No V of 1811, see Act No. IV of 1872, section 3 and schedule I. Act No. V of 1811 is repealed by Act No. X of 1872

Native or other Power, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid;

and also to direct the immediate trial, by courts-martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

and to direct immediate trial by courts-martial of Lieges offending against Regulation.

3. It is hereby further declared that any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding section, and who shall be convicted thereof by the sentence of a court-martial, during the suspension of the functions of the ordinary criminal Courts of Judicature and the establishment of the martial law, shall be liable to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead.

Lieges convicted by court-martial of crime specified in section 2 liable to immediate punishment of death;

All persons who shall, in such cases, be adjudged by a court-martial to be guilty of any of the crimes specified in this Regulation, shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories, at the time when the crime of which they may be convicted shall have been committed.

and to forfeiture of property.

4. The Governor General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature, instead of causing such persons to be tried by courts-martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

Government not precluded from causing persons charged to be tried by ordinary Courts.

REGULATION XVII OF 1806.

Passed on the 11th of September 1806.

A Regulation for extending to the Province of Benares the rates of interest on future loans, and provisions relative thereto, contained in Regulation XV. 1793; also for a general extension of the period fixed by Regulations I. 1798, and XXXIV. 1803, for the redemption of mortgages and conditional sales of land, under deeds of bai-bil-wafa, kat-kabála or other similar designation.[a]

What shall entitle mortgagor or his representative to redeem before final foreclosure, after application by mortgagee for foreclosure.

7. IN addition to the provisions made in the Provinces of Bengal, Bihár, Orissa and Benares, by Regulation I. 1798[b] and in the Ceded and Conquered Provinces by Regulation XXXIV. 1803,[c] for the redemption of mortgages and conditional sales of land, under deeds of bai-bil-wafa, kat-kabála or any similar designation, it is hereby provided, that when the mortgagee may have obtained possession of the land on execution of the mortgage-deed, or at any time before a final foreclosure of the mortgage, the payment or established tender of the sum lent under any such deed of mortgage and conditional sale, or of the balance due, if any part of the principal amount shall have been discharged, or when the mortgagee may not have been put in possession of the mortgaged property, the payment or established tender of the principal sum lent, with any interest due thereupon, shall entitle the mortgagor and owner of such property, or his legal representative, to the redemption of his property, before the mortgage is finally foreclosed in the manner provided for by the following section; that is to say, at any time within one year (Bengal, Faslí or Willaití, according to the era current where the mortgage may take place) from and after the application of the mortgagee to the Zila or City Court of Díwání Adálat for foreclosing the mortgage and rendering the sale conclusive, in conformity with section 8 of this Regulation.

Provided that such payment or tender be clearly proved to have been made to the lender and mortgagee or his legal representative; or that the amount due be deposited, within the time above specified, in the Díwání Adálat of the zila or city in which the mortgaged property may be situated, as allowed for the security of the borrower and mortgagor, in such cases, by section 2, Regula-

[a] Sections 7 and 8 are declared to be in force in the Panjáb, Act No. IV of 1872, section 3 and schedule I.

[b] See *supra*, p. 1.

[c] Repealed by Act No. XV of 1874.

tion 1. 1798,[a] and section 12, Regulation XXXIV. 1803,[b] the whole of the provisions contained in which sections, as applied therein to the stipulated period of redemption, are declared to be equally applicable to the extended period of one year, granted for an equitable right of redemption by this Regulation.

Procedure for mortgagee or conditional vendee desirous to foreclose mortgage or render conditional sale absolute.

8. Whenever the receiver or holder of a deed of mortgage and conditional sale, such as is described in the preamble and preceding sections of this Regulation, may be desirous of foreclosing the mortgage and rendering the sale conclusive on the expiration of the stipulated period, or at any time subsequent before the sum lent is repaid, he shall (after demanding payment from the borrower or his representative) apply for that purpose by a written petition, to be presented by himself, or by one of the authorized vakíls of the Court, to the Judge of the zila or city in which the mortgaged land or other property may be situated.

The Judge, on receiving such written application, shall cause the mortgagor or his legal representative to be furnished, as soon as possible, with a copy of it; and shall at the same time notify to him, by a parwána under his seal and official signature, that if he shall not redeem the property mortgaged in the manner provided for by the foregoing section, within one year from the date of the notification, the mortgage will be finally foreclosed and the conditional sale will become conclusive.

REGULATION V of 1817.

Passed on the 28th of February 1817.

A Regulation for declaring the rights of Government and of individuals with respect to hidden Treasure, and for prescribing the rules to be observed on the discovery of such Treasure.[c]

Preamble.

1. WHEREAS the provisions of the Muhammadan and Hindú laws respecting the discovery of hidden treasure differ materially; and whereas it is deemed expedient that an uniform principle should be established for the guidance of persons by whom hidden treasure may be discovered, the following provisions are enacted, to be in force as soon as promulgated throughout the Provinces immediately subordinate to the Presidency of Fort William.

Hidden treasure when to become property of finder.

2. Whenever any hidden treasure, consisting of gold or silver coin, or bullion, or of precious stones, or other valuable property, may be found buried

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[a] See *supra*, p. 1.
[b] Repealed by Act No. XV of 1874.
[c] Declared to be in force in the Panjáb, Act No. IV of 1872, section 3 and schedule I.

in the earth, or otherwise concealed within any part of the territory subject to this Presidency, and, after due notification, the owner thereof may not be discoverable, such hidden treasure shall become the property of the person or persons who may have found the same, provided it shall not exceed in amount or value the sum of one lákh of sikká rupees; and provided the finder or finders shall have conformed to the rules prescribed in this Regulation.

3, 4. [*Repealed by Act No. VIII of 1868.*]

Collectors to bring forward claim of right on part of Government.

5. It shall be the duty of the Collectors of land-revenue acting under the instructions of the Board of Revenue, to bring forward and to support, in conformity with the foregoing provision, any claim of right which Government may appear to possess to such treasure.

Summary inquiry instituted.

In the event of any claim of right being preferred, either on the part of individuals or of Government, pursuant to the prescribed notification, the Judge shall institute a summary inquiry into the claim preferred, and if the title of Government, or other person so claiming the treasure in deposit, or any part thereof, be clearly established, he shall adjudge the same accordingly, subject to reimbursement of all expense incurred by the finder of the treasure, as well as to such compensation for the discovery of it as may, in such case, appear just and reasonable.

Judgment how awarded.

Judgment when no claim preferred by Government or individuals, and amount does not exceed one lákh.

6. If no claim of right be preferred either by Government or by an individual, or if the claim or claims so preferred shall not on a summary inquiry appear to be well founded, and the amount or value of the hidden treasure found at the same time, or in the same place, shall not exceed one lákh of sikká rupees, the zila Judge shall adjudge the same to the person or persons who may have discovered the treasure, subject only to the actual expense which may have been incurred in adopting the measures prescribed by this Regulation.

Decision when amount exceeds one lákh, and no claim of right is established.

7. If the amount or value of any hidden treasure found at the same time, or in the same place, shall exceed one lákh of sikká rupees, and no claim of right thereto be established, judgment shall be given, according to the preceding section, in favour of the person or persons who may have discovered the treasure, to the amount of one lákh of sikká rupees; and the excess above that sum shall be declared at the disposal of Government.

Persons discovering treasure, and neglecting to give notice within one month, to forfeit all right to treasure and compensation.

8. If any person discovering hidden treasure of the description specified in section 2 of this Regulation shall not, within one month after finding the same, give notice to the Judge of the Zila or City Court, he shall be considered to have forfeited all right and title to the treasure, as well as all claim to a reimbursement of expense, compensation or reward, under the provisions of this Regulation, and the treasure so clandestinely withheld from public

investigation shall, on a summary suit by any subsequent claimant of right, and proof of a just title thereto, be adjudged to the legal owner with interest and costs, or if no private claim be established, shall, on the application of the vakíl of Government, under instructions from the Board of Revenue, be liable to confiscation to Government.

9. The summary decisions of the Judges of the Zila Courts, which may be passed under this Regulation, shall be open to a summary appeal. Summary appeal.

REGULATION III OF 1818.

Passed on the 7th of April 1818.

A Regulation for the confinement of State Prisoners.[a]

1. WHEREAS reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper; and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council; and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed; and whereas the ends of justice also require that due attention be paid to the health of every State-prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family; and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamíndárs, taluqdárs and others situated within the territories depend- Preamble.

[a] Declared to be in force in the Panjáb, Act No. IV of 1872, section 3 and schedule I.

ent on the Presidency of Fort William, should be attached and placed under the temporary management of the Revenue Authorities, without having recourse to any judicial proceeding; and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government; the Vice-President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated.

Proceeding for placing persons under restraint as State-prisoners.

2. *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of warrant.

Second.[a]—The warrant of commitment shall be in the following form :—

To the [*here insert the officer's designation*].

" Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [*here insert the State-prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*], you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody, and to deal with him in conformity to the orders of the Governor General in Council, and the provisions of Regulation III of 1818.

" Fort William, the

" By order of the Governor General in Council,

" *A. B.*, Chief Secy. to Govt."

Authority of warrant.

Third.—The warrant of commitment shall be sufficient authority for the detention of any State-prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William.

Officers having custody of State-prisoners, to submit periodical reports.

3. Every officer in whose custody any State-prisoner may be placed shall, on the first of January and first of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State-prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

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[a] See Act No. XXXIV of 1850, section 1.

4. *First.*—When any State-prisoner is in the custody of a zila or city Magistrate, the Judges are to visit such State-prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State-prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head. State-prisoners in custody of zila or city Magistrate by whom to be visited.

Second.—When any State-prisoner is placed in the custody of any public officer not being a zila or city Magistrate, the Governor General in Council will instruct either the zila or city Magistrate, or the Judge or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner. State-prisoners in custody of public officer not being zila or city Magistrate, by whom to be visited.

5. The officer in whose custody any State-prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State-prisoner may from time to time be desirous of submitting to the Governor General in Council. Representations by State-prisoners to be submitted to Government.

6. Every officer in whose custody any State-prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council, whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life. Report to Government regarding confinement, &c., of prisoners.

7. Every officer in whose custody any State-prisoner may be placed, shall take care that the allowance fixed for the support of such State-prisoner is duly appropriated to that object. Appropriation of allowance for support.

8. [*Repealed by Act No. XVI of 1874.*]

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamíndár, jágírdár, taluqdár or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated, and to the Sadr Díwání Adálat and Nizámat Adálat. Attachment of estates by order of Government without decision of Court.

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under khás management. Management of attached estates.

Attached lands not liable to sale in execution.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Government to arrange for satisfaction of decrees.

Third.—In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Release of estate from attachment.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue Authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

REGULATION XI OF 1825.

Passed on the 26th of May 1825.

A Regulation for declaring the Rules to be observed in determining Claims to Lands gained by Alluvion, or by Dereliction of a River or the Sea.[a]

Preamble.

1. IN consequence of the frequent changes which take place in the channel of the principal rivers that intersect the Provinces immediately subject to the Presidency of Fort William, and the shifting of the sands which lie in the beds of those rivers, chars or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south-eastern limits of Bengal.

The lands gained from the rivers or sea by the means above-mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming chars or other lands gained in the manner above described.

[a] Declared to be in force in the Panjáb, Act No. IV of 1872, section 3 and schedule I.

The Court of Sadr Díwání Adálat, with a view to ascertain the legal provisions of the Muhammadan and Hindú laws on the subject, called for reports from their law-officers of each persuasion, and on consideration of the reports furnished by the law-officers in consequence, as well as of the decisions which have been passed by the Court of Sadr Díwání Adálat in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature; to be in force, as soon as promulgated, throughout the whole of the Provinces subject to the Presidency of Fort William.

Claims and disputes as to alluvial lands to be decided by usage when clearly recognized and established.

2. Whenever any clear and definite usage of shikast paiwast, respecting the disjunction and junction of land by the encroachment or recess of a river, may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estate shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

Where no usage established, claims how decided.

3. Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea.

Land gained by gradual accession from recess of river or sea.

4. *First.*—When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a zamíndár or other superior landholder, or as a subordinate tenure, by any description of under-tenant whatever.

Extent of interest in increment, of person in possession.

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed, to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under the provisions of Regulation II. 1819, or of any other Regulation in force.

Nor if annexed to a subordinate tenure held under a superior landholder, shall the under-tenant, whether a khudkást raiyat, holding a maurúsí istimrárí

tenure at a fixed rate of rent per bígha, or any other description of under-tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.

When river by sudden change of course intersects estate.

Second.—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate, and join it to another estate, without destroying the identity, and preventing the recognition, of the land so removed.

In such cases the land, on being clearly recognized, shall remain the property of its original owner.

Chars thrown up in navigable river.

Third.—When a char or island may be thrown up in a large navigable river (the bed of which is not the property of an individual), or in the sea, and the channel of the river or sea between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Government.

Property therein when channel fordable.

But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land, tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section, with respect to increment of land by gradual accession.

Chars, &c., thrown up in small shallow rivers.

Fourth.—In small and shallow rivers, the beds of which, with the jalkar right of fishery, may have been heretofore recognized as the property of individuals, any sand-bank or char that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section.

Disputes relative to lands gained by alluvion or by dereliction not provided for by Regulation.

Fifth.—In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or if not, by general principles of equity and justice.

Encroachments on beds of navigable rivers and other obstructions.

5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent zila and city Magistrates, or any other officers of Government, who may be duly empowered for that purpose, from removing obstacles which appear to

interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.

REGULATION XX OF 1825.

Passed on the 3rd of November 1825.

A Regulation for declaring the Jurisdiction of the Military Courts-Martial and Courts of Requests, constituted by a recent Act of Parliament, and for modifying some Parts of the existing Regulations in conformity thereto.[a]

Procedure as to European British subjects attached to army serving within certain limits, when apprehended by Magistrates on criminal charges.

2. *First.*—In modification of the rules contained in Regulation II. 1796,[b] section 19, Regulation VI. 1803,[c] and Regulation XV. 1806,[d] it is hereby provided, that if any European British subject who shall be apprehended by or brought before a Magistrate on a charge of murder, rape, robbery, theft or other criminal offence, shall be found, on his apprehension, to have been, at the time when the offence laid to his charge may have been committed, a commissioned or non-commissioned officer or soldier serving with any body of troops in the service of His Majesty or of the Honourable East India Company, at any place not within the territories subject to the Presidency of Fort William, or at any place within such territories which may be situated above one hundred and twenty miles from the aforesaid Presidency, or to have been, when the offence was committed, a person attached to such body of troops in any of the capacities specified in sections 45 and 60 of Statute 4 Geo. IV, cap. LXXXI,[e] it shall be the duty of the Magistrate by whom such person so accused may be apprehended, instead of proceeding to hear evidence to the charge as directed in such cases in the Regulations above-mentioned, to deliver over such person so charged, together with a statement of the charge brought against him, to the commanding officer of the regiment, corps or detachment to which such accused person shall belong, or to the commanding officer of the nearest military station, for the purpose of his being brought to trial before a Court-martial under the provisions of the said Act of Parliament.

Magistrates to assist in apprehension of persons triable by

Second.—It shall further be the duty of every Magistrate, on a written application being made to him for that purpose by the commanding officer of any regiment, corps or detachment stationed or employed as specified in the

[a] Sections 2 and 4 are declared to be in force in the Panjáb, Act No IV of 1872, sec. 3 and sch. I.
[b, d] Repealed by Act No. XVII of 1862.
[c] Repealed by Act No. VIII of 1868.
[e] Repealed by 3 & 4 Vic., c. 37, s. 59, which was repealed by 12 & 13 Vic., c. 43, which was repealed by 20 & 21 Vic, c. 66, which was repealed by 26 & 27 Vic., c. 48, which is spent.

Court-martial, when accused of criminal offences.

preceding clause, to use his utmost endeavour for the apprehension of any British officer, non-commissioned officer, soldier or other person of the description therein alluded to, who may have been charged with the crime of murder, rape, robbery, theft or other criminal offence, and also to give his assistance, and that of the officers under his control, in securing the person so accused.

Magistrates to enforce process for attendance of witnesses, &c., before Courts-martial, on application.

Third.—It is hereby declared, that it shall be competent to the Judge-Advocate-General or Deputy Judge-Advocate, or other person appointed to conduct the proceedings of any Court-martial assembled for the trial of offences under the provisions of the said Act of Parliament, to transmit to the Magistrate of the zila or city within whose jurisdiction persons whose attendance before such Court-martial is required may reside, any warrant, summons or other process for the attendance of such person;

and it shall be the duty of such Magistrate who may be so applied to, to give his assistance and that of the officers under him in the due execution of such process, and generally to aid and assist in the execution of all processes issued by such Courts-martial.

Magistrates not to inquire into criminal charges preferred against certain British subjects.

Fourth.—The several zila and city Magistrates are hereby prohibited from receiving and inquiring into any criminal charge of the nature described in section 2 of Statute 4 Geo. IV, cap. LXXXI, which may be preferred to them against any British commissioned or non-commissioned officer, soldier or other person attached to the army, who may have been regularly brought to trial under the provisions of the said Act, and acquitted or convicted by the sentence of a Court-martial of such offence:

provided however that in any case wherein it may be ascertained by the Magistrate, on due inquiry, that any person accused of such criminal offence, who may be subject to trial by Court-martial, has not been brought to trial for such offence before a Court-martial; and that no effectual proceedings have been taken, or have been ordered to be taken, against him, then and in that case it shall be the duty of the Magistrate to report the circumstance for the information and orders of the Governor General in Council, who, if it appear to him proper so to do, will direct the case to be proceeded upon in the ordinary course of law; and the Magistrate, if so authorized, shall be competent to proceed against the offender under the provisions of the Regulations hitherto in force.

Proceeding against British subjects accused of criminal offences when not attached to army or

Fifth.—Provided always, and it is hereby declared, that nothing contained in the foregoing clauses shall be held to restrict the Magistrates of districts, either in their ordinary capacity of Magistrates or as His Majesty's Justices of the Peace duly qualified, from proceeding under the rules heretofore in force against all British subjects charged with criminal offences, who may not be

attached to the army, or subject to be tried for such offences by a Court-martial. triable by Court-martial.

Sixth.—It is hereby further declared that the provisions of this Regulation, as far as the same relate to criminal offences committed by any commissioned or non-commissioned officer, soldier or other person attached to the army, being British subjects, shall not be held to apply or be in force when such offences shall be committed by persons of the above description, attached to any body of troops which may be stationed in the garrison of Fort William, or at Barrackpore, Midnapore, Dum-Dum or at any other place within the territories under the Presidency of Fort William, which may not be situated at a greater distance than one hundred and twenty miles from the said Presidency; Provisions not to apply to troops in Fort William or at other place not situated above 120 miles from Presidency.

and in all such places, the powers and authorities vested by law in the Magistrates and Justices of the Peace shall continue to be and remain in full force and effect.

4. Whenever a witness in attendance before a general Court-martial, or other military Court duly authorized to administer an oath, shall refuse to be sworn, and the Court shall be of opinion that the testimony of such witness is essential, and that there is no sufficient reason to exempt him from taking the oath, the Judge-Advocate-General, or other officer conducting the proceedings of the Court shall be authorized to forward such witness, with a written statement, to the zila Magistrate or Joint Magistrate within whose jurisdiction the Court may be held; Procedure when witness refuses to be sworn before military Court.

and the Magistrate or Joint Magistrate is hereby directed to make such inquiries into the case as may satisfy him that the witness ought or ought not to be exempted from taking an oath.

If the Magistrate or Joint Magistrate shall be of opinion that no sufficient grounds exist for exempting the witness from taking the prescribed oath, he shall proceed in the same manner as if the refusal to give evidence on oath had taken place in his own Court:

on the other hand, if he shall be of opinion that the witness ought not to be compelled to take the oath, he shall certify the same to the Judge-Advocate-General or other officer above referred to, and shall not impose any penalty on such witness.

PART II:

LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE PANJÁB.

ACT No. XXI of 1836.

Passed on the 19th of September 1836.

It shall be lawful for the Governor General in Council, by an Order in Council, to create new zilas in any part of the Presidency of Fort William in Bengal, and to alter the limits of existing zilas.[a]

ACT No. XXVI of 1854.

Received the Governor General's assent on the 11th of November 1854.

An Act for making better provision for the Education of Male Minors subject to the superintendence of the Court of Wards.[b]

Preamble.

WHEREAS the existing laws are found insufficient to ensure the proper education of male minors subject to the superintendence of the Court of Wards, and it is expedient to make further and better provision for the education of such persons; It is enacted as follows:—

General control of education of male minor wards vested in Collectors.

1. The general superintendence and control of the education of every male minor, whose property has been, or shall be, brought under the management of the Court of Wards, in and for any part of the Presidency of Fort William, by virtue of any Act or Regulation which now is, or hereafter shall be, in force, is hereby vested in the Collector of Revenue, acting under the said Court of Wards, in the zila or district wherein such minor's estate is situate; or, if such minor is possessed of immoveable property in different districts, in such one of the Collectors of Revenue of such districts as the said Court of Wards shall select.

Power to cause male minor wards to be educated at any school or college.

2. It shall be lawful for every Collector of Revenue, in whom the superintendence of the education of any minor is vested by this Act, to direct that such minor shall reside, either with or without his guardian, at the sadr station of the district, or at any other place within the said Presidency, and

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[a] Saved by Act No. VI of 1867, s. 2.
[b] See Act No. XL of 1858, s. 25, and Act No IV of 1872, s 36

shall attend, for the purposes of education, such school or college as to the said Collector may seem expedient; and to make such provision as may be necessary for the proper care and suitable maintenance of the said minor whilst attending such school or college.

Or to cause wards to be educated privately.

3. If it shall appear to the Collector inexpedient to place any such minor at a school or college, he shall, if the proceeds of the estate are sufficient for that purpose, cause such minor to be educated by a private tutor, properly qualified, either at the family-residence of such minor, or at the sadr station, or elsewhere within the said Presidency; and in that case also the Collector shall have power to determine from time to time the place of residence of such minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

Expenses incurred under Act to be paid out of profits of ward's estate.

4. All charges and expenses which may be incurred on account of any male minor ward under the provisions of this Act, for college or school-fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home or otherwise, shall be defrayed from the profits of his estate in the same manner as other expenses incurred under the authority or with the sanction of the Court of Wards.

Court of Wards may remove guardians for disobedience to Collector's orders.

5 It shall be lawful for the Court of Wards, on the application of a Collector, to remove from office any guardian who shall neglect or refuse to obey, or shall evade compliance with, any orders passed, or directions given, by such Collector under the provisions of this Act, and to cause a new guardian to be appointed in his place, whether the person so removed shall have been first invested with the guardianship of the minor upon the nomination of a Collector acting under the Court of Wards, or by a testamentary appointment confirmed by the Court of Wards;

and if, in any such case, the guardian to be removed shall be also the manager of the minor's estate, it shall be lawful for the Court of Wards at its discretion, either to remove him from both the said offices, or to continue him in that of manager only.

Continued liability of guardian removed. powers and responsibilities of new guardian

6. The guardian so removed shall, notwithstanding his removal, continue liable to account to the Collector for his receipts and disbursements during the period of his guardianship:

and every guardian appointed in the place of a guardian so removed shall be chosen in the same way, and shall have the same rights and powers, and be subject to the same responsibilities, as persons originally appointed to be guardians of minors by a Collector of Revenue acting under the Court of Wards.

Right to custody of person of male minor

7. The right to the custody of the person of any male minor whose property is under the management of the Court of Wards is hereby vested in the

person appointed with the sanction of the Court of Wards, either originally or upon the removal of a former guardian, to be the guardian of such minor, or, in the absence of any such person, in the Collector of Revenue having the superintendence of the education of such minor under the provisions of this Act.

Vested in guardian appointed by Court of Wards, or in Collector.

8. All orders and proceedings of a Collector under the provisions of this Act, shall be subject to the revision of the Court of Wards, and every person aggrieved by any such order or proceeding may prefer an appeal therefrom to the Commissioner of Revenue acting as a Court of Wards in and for the division to which such Collector belongs.

Appeal from orders of Collector to lie to Commissioner acting as Court of Wards.

ACT No. XX OF 1856.

Received the Governor General's assent on the 14th of November 1856.

An Act to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal.

WHEREAS if is expedient to make better provision for the appointment and maintenance of Police chaukídárs in cities, towns, stations, suburbs and bázárs in the Presidency of Fort William in Bengal; It is enacted as follows:—

Preamble.

1. The monthly assessment levied under Regulation XXII. 1816,[a] and Act XV of 1837[b] in any city or station at the time of the passing of this Act, shall continue to be levied until the same shall be revised and altered under the provisions of this Act.

Existing assessment to be levied until revised.

2. The provisions of this Act shall have effect in all cities, stations, towns, suburbs and bázárs in the said Presidency to which the Local Government may, at any time, extend the same by notification in the official Gazette:[c] Provided always that this Act shall not be extended to any agricultural village.

To what places Act shall apply.

Proviso.

In all places in which this Act is now in force, it shall be deemed to have been extended under the provisions of this section.[d]

3. The Government may, by notification to be published in the official Gazette, unite, for the purposes of this Act, any city, town, suburb, station or bázár, or any part or parts of a city, town, suburb, station or bázár, with any

Unions may be formed.

[a, b] Repealed by this Act.

[c] Under Act No. XXII of 1864, s. 14, the Local Government has extended the provisions of Act No. XX of 1856, to the Cantonments of Multán, Rawalpindi, Sialkot, Kasauli, Dagshai, Subathu, Jhelam, Jalandhar, Mían Mír and Peshawar.

[d] See Act No. XXII of 1871, s. 1.

other city, town, suburb, station or bázár, or part or parts of a city, town, suburb, station or bázár; and in such case all the provisions of this Act applicable to a city, town, suburb, station or bázár shall apply to such union.

Government may define limits of cities, towns, &c.

4. For the purposes of this Act the Local Government may define and declare the limits of any city, town, suburb, station, bázár or union, and all occupiers of houses within any such city, town, suburb, station, bázár or union as aforesaid, or within such limits as shall be so defined as aforesaid, shall be liable to be assessed or rated according to the provisions of this Act, for the purpose of maintaining the chaukídárs appointed to be maintained in such city, town, station, suburb, bázár or union.

Houses let to lodgers how assessed.

5. If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall, for the purposes of this Act, be deemed to be the occupier of such house.

Penalty for removing, &c., name of street or number of house.

6. The Magistrate may cause a name to be given to any street and affixed in such place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mahalla, for the purpose of identifying such house; and if any person shall wilfully remove, obliterate or destroy such name or number, he shall be liable, on conviction by a Magistrate, to a fine not exceeding twenty rupees.

Magistrate to determine number of chaukídárs. Proviso.

7. The Magistrate shall determine the number of chaukídárs to be maintained in any city, town or other such place as aforesaid; but the number of chaukídárs so to be maintained shall not exceed one to every twenty-five houses.

Grades and wages of chaukídárs.

8. The chaukídárs appointed under this Act may be of different grades, and the wages to be paid to the several grades shall be determined by the Magistrate.

Magistrate to determine sum to be raised annually.

9. The Magistrate shall determine the total amount required to be raised in any year in any city, town or other such place as aforesaid, for the purpose of maintaining the chaukídárs appointed to be maintained therein, and for the purposes specified in sections 33, 34, 35 and 36 of this Act, together with such sum as the Magistrate may consider necessary to provide against the contingency of losses from defaulters in the current year, and the amount of losses, if any, actually sustained from defaulters in the preceding year.

Nature of tax to be levied.

10. The tax to be levied in any city, town or other place as aforesaid, for the purposes of this Act, may be either an assessment according to the circumstances and the property to be protected, of the persons liable to the same or a rate on houses and grounds according to the annual value thereof.

The Local Government, on the report of the Magistrate and Commissioner of Circuit, shall determine in each case whether the tax to be levied shall be such assessment or such rate.

Limitation of tax.

11. If the tax be an assessment according to the circumstances and the property to be protected of the persons liable to the same, the amount assessed in respect of any one house shall not be more than the pay of a chaukídár of the lowest grade.[a] If the tax be a rate on houses and grounds, it shall not exceed five per centum of the annual value thereof.

Rate how to be ascertained.

12. For the purpose of making a rate under this Act, the annual value of the houses and grounds liable to the rate shall be computed and ascertained upon an estimate of the gross annual rent at which the same might reasonably be expected to let from year to year.

Grounds used for purposes of trade shall be liable to the rate, but grounds used for the purpose of cultivation or for depasturing cattle shall not be liable.

Magistrate may exempt occupiers unable to pay.

13. The Magistrate may, at his discretion, exempt from the assessment or rate, or may relieve from the payment of his assessment or rate, any occupier who may be unable from poverty to pay the same.

Constitution of panchâyats.

14. For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a panchâyat for each such city, town or other place as aforesaid, or, when he may see fit to divide any such city, town or place into convenient divisions, for each division thereof, and shall issue a sanad of appointment, specifying the names, residence, business or other description of the persons appointed and the period for which the appointment is made.

Every panchâyat shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town or other place, or in or near to any such division thereof.

Magistrate may appoint non-resident person to be a member.

Provided that, instead of any one such person, the Magistrate may appoint any person, whom he may think fit, to be a member of the panchâyat, notwithstanding such person may not reside or carry on business in or near to such city, town or other place, or in or near to any such division thereof.

Duties of panchâyat.

15. The panchâyat so appointed, or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment or rate upon the several persons liable to be assessed or rated in respect of their occupation of property within the district (whether city, town or other place as aforesaid, or any division thereof) for which the panchâyat shall be appointed, and shall enter the same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business or other description of such occupier, the property occupied and the amount payable monthly by such occupier.

[a] See Act No. XXII of 1871, s. 2.

If the tax be a rate on the annual value of the property occupied, such annual value and the total amount of the annual rate shall also be specified.

Magistrate's requisition.

The requisition of the Magistrate to the panchâyat to make out such list shall be in the form marked A or B, as the case may be, set forth in the appendix to this Act annexed, or to the like effect.

Panchâyat may revise existing assessment or rate.

16. The panchâyat shall, if required by the Magistrate so to do, instead of making a new assessment or rate, revise and amend the assessment or rate then in force.

Magistrate may amend and settle assessment or rate as revised.

17. When an assessment or rate shall have been made or revised, as the case may be, the panchâyat shall forward to the Magistrate the list containing the same; and the Magistrate shall revise, and, if necessary, amend and settle it.

Assessment or rate to be published.

18. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a notification prepared according to the form marked C in the appendix to this Act, or to the like effect, and written in the language of the Province in which the city, town or place is situate, to be stuck up in some conspicuous place in the district for which the assessment or rate has been made; and another copy, together with a like notification, at the nearest Police-thánâ; and shall also cause a third copy to be deposited in his own office.

Assessment or rate to stand good for one year

19. Unless revised or corrected as hereinafter provided, every assessment or rate under this Act shall stand good for one whole year, and until a new one is made, and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof; and, after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier.

Effect of change of occupation before new assessment or rate.

Revised assessment or rate deemed new.

Every assessment or rate which shall be revised according to the provisions of section 16 shall be deemed a new assessment or rate.

Continuance of assessment of past year.

Provided always, that, if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be republished according to the provisions of section 18, and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding section.

Appeal from assessment or rate.

20. Any person assessed or rated, who shall be dissatisfied with his assessment or rate, or who shall dispute his occupation of any property, or his liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate, after making such inquiries as he deems necessary,

by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or rate or amend the same.

In case the Magistrate confirm the assessment or rate, he may award costs against the appellant. Award of costs.

The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment or rate, nor shall the liability of any person to be assessed or rated be questioned in any other manner or by any other Court. Decision on appeal. Bar of jurisdiction.

Provided that no appeal shall be received after the expiration of one month from the time of the notification of the assessment or rate prescribed by section 18, or of the notification of the substitution of the name of an occupier under section 19, unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal. Limitation of appeal.

21. The Commissioner of Circuit, with the consent of the Local Government, may at any time direct the Magistrate to revise the assessment or rate of any city, town or other place as aforesaid, specifying the reasons which, in his opinion, render such revision necessary, and the Magistrate shall, according to such direction, revise and, if necessary, amend the same. Commissioner may direct revision of assessment or rate.

22. The Magistrate may require the panchâyat to revise the assessment or rate at any period during the year; but on every such occasion he shall address a written order to the panchâyat, specifying the reasons which render such revision necessary, and requiring an amended return within a stated period. Magistrate may direct revision at any time of year, for reasons stated.

23. Whenever any assessment or rate is revised during the year as provided in the two last preceding sections, a revised list, together with a notification as prescribed in section 18, shall be prepared and published in the manner therein directed. Publication of assessment or rate as revised.

And all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in section 20. Objections.

24. If any person appointed a member of a panchâyat refuse to undertake the office, or omit to perform the duties thereof, and do not, within fifteen days from the date of his appointment, show satisfactory grounds for his refusal or omission, or provide such a substitute as the Magistrate approves, the Magistrate may fine such person in a sum not exceeding fifty rupees. Penalty for refusal to serve on panchâyat.

25. If the persons appointed a panchâyat, or a majority of them, refuse or omit, for a period of fifteen days after the receipt of an order from the Magistrate, to perform the duties required of them, the Magistrate may himself make or revise the assessment or rate, and may enforce the same as if it had been made or revised in the first instance by the panchâyat: If panchâyat refuse or omit to act, Magistrate may assume their functions.

Provided that the functions of the panchâyat shall not thereby absolutely Proviso.

cease and determine, but may be resumed at any time, only not so as to invalidate any act done by the Magistrate under this section.

Residents only bound to act on panchâyat.

26. No person shall be bound to act on a panchâyat unless he shall reside or carry on business within the limits of the district for which the panchâyat is to be appointed.

Duration of panchâyat and limitation of service thereon.

27. Every panchâyat shall be appointed for the period of one year, and no person shall be compelled to serve on a panchâyat for more than one year at a time, or within less than three years after the expiry of previous service; but nothing in this section shall prevent any person from being appointed to serve on a panchâyat at any time whatsoever with his own consent.

Member of panchâyat removable only on application of rate payers.

28. If a majority of the persons assessed or rated in any district for which a panchâyat shall be appointed, not being in arrear, make application in writing to the Magistrate for the removal of any member of the panchâyat appointed for such district, the Magistrate, if he think it expedient, may remove such member from the panchâyat.

Vacancies in panchâyat how supplied.

29. If any vacancy shall occur among the members of a panchâyat, or if any member appointed shall refuse or decline or be unable to act, the Magistrate may nominate and appoint another person to supply the vacancy or to act in the stead of such member, subject to the rules already laid down as to the original appointment of members; but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sanad under section 14 of this Act.

Panchâyat to report misconduct of chaukídárs, or death or absence.

30. The panchâyat shall give notice to the Magistrate of any neglect or misconduct on the part of any chaukídár within the district for which they are appointed, which shall come to their knowledge; and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any chaukídár or from any other cause.

Appointment and duty of sadr panchâyat.

31. In cities and large towns containing three or more divisions or districts, the Magistrate may appoint a sadr panchâyat consisting of not less than five members, who may be selected either from the members of the local panchâyats or from any other residents of the city or town.

It shall be the duty of the sadr panchâyat to assist the Magistrate, when required so to do, in carrying out generally the objects of this Act, and particularly in revising the assessment or rate made by the district panchâyats and enquiring into and reporting on appeals preferred against the same.

Appointment and registry of chaukídárs.

32. The chaukídárs to be employed under this Act shall be appointed by the Magistrate, and the Magistrate shall cause to be kept a register in which shall be entered the name, age, place of residence and previous occupation of every person so appointed, with the date of his appointment.

Appointment

33. Subject to the approval of the Commissioner of Circuit, the Magistrate

may appoint such number of jamadárs and inspectors as may be necessary for the supervision and control of the chaukídárs : of jamadárs and inspectors.

Provided that the number of these officers shall not be greater than one jamadár to fifteen chaukídárs, and one inspector to sixty chaukídárs. Their number.

34. Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint one or more tax-collectors or dároghas, and such other servants as may be necessary for preparing or assisting the panchávat in preparing the assessment or rate, for copying the same, for collecting the tax, keeping the accounts and records and otherwise carrying out the purposes of this Act. Appointment of tax-collectors and other establishment.

The Magistrate shall take from every tax-collector or dárogha such security for the due disposal of the sums collected by him as may be thought necessary. Security.

35. The Magistrate may further incur any reasonable expense in the purchase of stationery, in providing badges, dresses and weapons for the chaukídárs, and for any other contingencies that may seem to him necessary. Contingent expenses.

36. After paying the wages of the chaukídárs, and defraying the charges specified in the three last preceding sections of this Act, the Magistrate may, with the sanction of the Commissioner of Circuit, appropriate any sum which may be available, to the purpose of cleansing the city, town or place, or of lighting or otherwise improving the same. Surplus-funds may be devoted to conservancy-purposes.

37. The tax-dároghas shall prepare from the lists hereinbefore mentioned, a register, which shall be attested by the Magistrate or his deputy or assistant, and shall contain the names of all persons assessed or rated so far as they can be ascertained, the property in respect of which the assessment or rate in each case is imposed, and the amount payable monthly by each person. Register of assessments.

38. On such dates as may be fixed by the panchávats for payment of instalments of the tax,[a] the tax-dárogha shall proceed in person, or through some one of his office-establishment, to collect the amount due for the current month from each person subject to the tax, and for all sums so collected, the dárogha shall grant a receipt: Collection of assessment.

Provided that, with the sanction of the Commissioners of Circuit previously obtained, the collection may be made quarterly instead of monthly; and in such case, the amount due for each quarter shall be collected in the last month of that quarter.

39. The tax-dárogha shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate, or some officer of his establishment authorized on that behalf, shall give the dárogha a receipt for every sum of money so remitted. Remittance of collections.

[a] See Act No. XXII of 1871, s. 3.

The Magistrate shall also cause all such sums of money to be credited to a separate fund, to be called the Chaukídárí Fund of the city, town or place in or on account of which they are collected.

Preparation of summons, &c.

40. The tax-dárogha shall prepare all summonses and processes to be issued against defaulters, and shall make the usual returns thereto, and shall keep a regular account of all distresses levied and sales made by him for the realization of arrears.

Report of defaulters to Magistrate.

41. On the tenth day after the date fixed for the payment of instalments of the tax,[a] or as soon after as possible, the tax-dárogha shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in respect to which they are assessed or rated, the amount of the monthly assessment or rate, and the amount due from each.

Summoning defaulters.

42. On receipt of the aforesaid list, the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the kachahrí of the Magistrate within a reasonable time, to be specified in the summons, to show cause for his refusal.

Assessment to be levied from defaulters by distress and sale.

43. If any defaulter fail to appear in answer to the summons, or having appeared, fail to satisfy the Magistrate that no arrear is due from him, the Magistrate may issue a warrant to the tax-dárogha, authorizing him to levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises in respect of which the arrear is due; and the Magistrate's order as contained in the warrant shall be final.

Sale how conducted.

44. The tax-dárogha shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give previous notice of the sale, and the time and place thereof, by beat of drum, in the district in which the property is situated.

Proceeds how applied.

If the arrear be not paid with costs, or the warrant be not in the meantime discharged or suspended by the Magistrate, the goods and chattels seized shall be sold at the time and place specified, in the most public manner possible; and the proceeds shall be applied in discharge of the arrears and costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure.

Returns of sale Costs.

The tax-dárogha shall make a return of all such sales to the Magistrate in the form specified in appendix D, and the costs upon every such proceeding shall be such as are mentioned and set forth in appendix E annexed to this Act.

Penalty for tax-dárogha purchasing at such sales.

45. Any tax-dárogha or other servant appointed under this Act, and any chaukídár or officer of Police, who shall purchase any property at any such

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[a] See Act No. XXII of 1871, s. 3.

sale as aforesaid, shall be liable, upon conviction before a Magistrate, to a penalty not exceeding fifty rupees; and the property shall be confiscated.

Sale of property beyond limits of town, &c.

46. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the district in which the premises are situate, the Magistrate may issue his warrant to the Názir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever; and such other Magistrate shall back the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant.

Goods liable to distress.

47. All goods and chattels, except tools or implements of trade, which may be found upon any premises in respect of which an arrear is due, shall be liable to be distrained for the recovery of such arrear.

Owner of goods to be indemnified by defaulter.

If the goods and chattels belong to any person other than the defaulter, the defaulter shall indemnify the owner of such goods and chattels from any damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same.

Limit to distress.

Provided that no distress shall be made for any arrears due under this Act, after the expiration of six calendar months from the time when such arrears became due.

Penalty for obstructing tax-dárogha in execution of duty.

48. Every person who shall wilfully obstruct or molest any tax-dárogha or any of his establishment, in the performance of their duties under this Act, or shall fraudulently conceal, remove or dispose of any of his property for the purpose of avoiding a distress under the provisions of this Act, or shall knowingly assist any other person in so doing, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees.

Magistrates to try complaints against tax-dárogha for extortion, &c

49. The Magistrates shall receive and try all complaints preferred on oath or solemn affirmation against any tax-dárogha or other person appointed under this Act for extortion, malversation or other misconduct in the discharge of his duty.

Penalty for extortion, &c.

On proof of any such offence, the tax-dárogha or other person as aforesaid shall be liable to dismissal from office, and to imprisonment, with or without labour, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or in default and until such delivery or refund be made, shall be liable to further imprisonment, with hard labour, for not more than six months.

Saving of

But nothing in this section shall be taken to prevent the Magistrate from

power to commit

committing any tax-dárogha or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

Powers, duties, and liabilities of chaukídárs, jamadárs and inspectors.

50. The chaukídárs, and the jamadárs and inspectors appointed under this Act, shall exercise all the powers, and perform all the duties, and be subject to all the liabilities, of Police-officers as prescribed in the general Regulations of the Bengal Code or Acts of the Government of India for the time being in force, so far as such powers, duties and liabilities are not inconsistent with, or otherwise expressly provided for by, this Act.

The chaukídárs and the jamadárs and inspectors are in all respects subordinate to the Police-dárogha of the thána within the limits of which they may be employed.

Chaukídárs to wear badges.

51. Every chaukídár appointed under this Act shall wear a badge with a number, and the name of the city, town, place or division for which he is appointed, engraved thereon.

Power of chaukídárs—

to arrest without warrant:

52. Every chaukídár and every jamadár and inspector appointed under this Act shall have power, without warrant, to apprehend and convey immediately to the nearest Police-station any person or persons taken in the act of committing any heinous offence, or whom he shall have just cause to suspect to be about to commit or to have committed a heinous offence, or against whom a hue and cry shall be raised:

to prevent nuisances:

Second.—He shall have power to prevent obstructions and nuisances on the roads and streets:

to give intelligence of resort of thieves, &c.;

Third.—He shall give immediate intelligence to the Police-dárogha of the resort to his division of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace:

to examine and detain suspected persons.

Fourth.—He may stop, examine, and if necessary detain, any person who shall be reasonably suspected at any time of having or conveying any thing stolen, or who shall be found between sunset and sunrise lying or loitering in any highway, yard or other place, and unable to give a satisfactory account of himself, and may convey such person to the nearest Police-station.

Assistance to chaukídárs in making arrests.

53. If a chaukídár or other Police-officer be unable to effect an arrest, he may require all persons present to assist him; and any person who refuses or neglects to comply with such requisition shall be liable, on conviction by a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding two months.

Chaukídárs, &c., how paid.

54. On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month as the Magistrate may appoint, the chaukídárs and the jamadárs and inspectors (if any) shall be mustered at the

thána to which they are attached, and the Police-dárogha or muharrir of the thána shall there pay them the wages due to them up to the close of the preceding month, and shall at the same time take the receipt of each chaukídár in an official register of receipts prepared for the purpose; and the dárogha, after signing the register in attestation of its correctness, shall transmit the same to the Magistrate.

Punishment of officers for neglect of duty, &c.

55. Any chaukídár and any jamadár or inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month's wages, or to imprisonment for any period not exceeding six months.

Suspension or dismissal of Police-officers.

56. The Magistrate may suspend or dismiss any officer appointed under this Act, whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Fines how disposed of.

57. All fines levied under this Act shall be credited to the Chaukídárí Fund and held available for the purposes of this Act.

58. [*Repealed by Act No. X of 1872*].

Control over proceedings of Magistrate and Commissioner.

59. All the proceedings of a Magistrate under this Act, except as otherwise specially provided, shall be subject to the control of the Commissioner of Circuit; and all the proceedings of the Commissioner of Circuit shall be subject to the control of the Local Government.

Act not to apply to Calcutta.

60. Nothing contained in this Act shall extend to the town of Calcutta.

Interpretation-clause.

61. Wherever in this Act, or in any appendix thereto, there is nothing in the context requiring a different interpretation—

the word "Magistrate" shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate:

the word "House" shall include any shop or warehouse:

the word "Bázár" shall mean any place of trade where there is a collection of shops or warehouses:

the word "District" shall mean a city, town, bázár or union, or any division thereof:

the expression "Police-dárogha" shall include any Tahsíldár or Náib-tahsíldár entrusted with Police-jurisdiction.

APPENDIX A.

To

[*Here insert the names, places of abode, business or other description of the panchayat.*]

I do hereby require you, the panchayat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed*

by the Magistrate) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equitable assessment upon the several occupiers of houses, shops and buildings in the (*here describe the city, town, place or division*), for the purpose of raising the sum of rupees required for the maintenance of chaukídárs for the year commencing on and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances and the property to be protected of each person. But the amount assessed in respect of any one house shall not exceed rupees (*here insert the pay of a chaukídár of the lowest grade*).[a]

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade or business or other description of the person assessed, the annual assessment, and the quota payable monthly; and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Amount of monthly payment.

[a] See Act No. XXII of 1871, s. 5.

APPENDIX B

To

[Here insert the names, places of abode, business or other description of the panchâyat.]

I do hereby require you, the panchâyat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equal rate upon the several occupiers of houses, shops and buildings, and of grounds occupied for the purpose of trade or business, in the (*here describe the city, town, place or division*), for the purpose of raising the sum of rupees required for the maintenance of chaukídárs for the year commencing on and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of the property occupied.

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property. The rate shall be an equal percentage, not exceeding five per cent. of such annual value.

Any person occupying ground for the purpose of trade is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle is not to be rated in respect thereof.

If the occupier of any house or ground in the said district shall be unable, on the ground of poverty, to pay the rate to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house, and shall be rated accordingly.

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated, the name, trade or business or other description of the person rated, the annual rateable value of the property,

the annual rate, and the quota payable monthly; and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Annual value of property.	Annual rate.	Amount of monthly payment.

APPENDIX C.

An assessment (*or* rate, *as the case may be*), made for (*here describe the city, town, village or other place or division for which the rate is made*) upon the several occupiers of houses and other property in the said district, pursuant to Act XX of 1856, for the purpose of maintaining chaukídárs for such district.

Property occupied	Names of occupiers.	Profession or business.	Amount of monthly (*or* quarterly) assessment (*or* rate).

Whereas the above assessment (*or* rate, *as the case may be*), has been duly made pursuant to Act XX of 1856, and has been revised and settled by me, the undersigned Magistrate of , the several persons whose names are included in the said assessment (*or* rate) are hereby required to pay the monthly (*or* quarterly) contributions set opposite to their names with regularity to the tax-dárogha or other person appointed by the Magistrate to receive the same[a] (*if the tax is to be collected quarterly, the months in which the payment is to be made must be specified*), or in default thereof, any arrear that may be due will be realized by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed (*or* rated) and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this day of

Magistrate of

APPENDIX D.

1	2	3	4	5	6	7	8	9	10	11
District.	Names of defaulters.	Amount of defalcation.	Amount, cost, or penalty.	Inventory of property seized under distress.	Date of distress.	Date of sale.	Property sold.	Amount realized on each article.	Purchaser's name.	Balance.

[a] See Act No. XXII of 1871, s. 5.

APPENDIX E.

Table of Fees payable in Distraints under this Act.

Sum distrained for.	Fee.	
	Rs.	As.
Under 1 rupee	0	4
1 and under 3 rupees	0	8
3 „ 5 „	1	0
5 „ 10 „	1	8
10 „ 15 „	2	0
15 „ 20 „	2	8
20 „ 25 „	3	0
25 „ 30 „	3	8
30 „ 35 „	4	0
35 „ 40 „	4	8
40 „ 45 „	5	0
45 „ 50 „	5	8
50 „ 60 „	6	0
60 „ 80 „	7	8
80 „ 100 „	9	0
Above 100	10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

ACT No. XXI of 1857.

Received the Governor General's assent on the 10th of July 1857.

An Act to make better provision for the order and good government of the Station of Howrah.

Penalty for owning, keeping or having charge of, gaming-house, &c.

10. Whoever, being the owner or occupier, or having the use, of any house, room or place, keeps or uses the same as a common gaming-house; and

whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be kept or used by any other person as a common gaming-house; and

whoever has the care or management of, or in any manner assists in conducting, the business of any house, room or place so kept or used; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room or place—

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Penalty for being found playing in gaming-house.

11. Whoever is found in any such house, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month;

and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Magistrate may authorise Police officers to enter gaming-house for search and seizure.

12. If the Magistrate, upon information on oath, and after such enquiry as he may think necessary, has reason to believe that any house, room or place is used as a common gaming-house, he may, by his warrant, give authority to any superior officer of Police

to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room or other place; and

to take into custody all persons whom he finds therein, whether or not then actually gaming; and

to seize all instruments of gaming, and all monies, and securities for money, and articles of value, reasonably suspected to have been used, or intended to be used, for the purpose of gaming, which are found therein; and

to search all parts of the house, room or place which he shall have so entered, when he has reason to believe that any instruments of gaming are

concealed therein, and also the persons of those whom he so takes into custody; and

to seize and take possession of all instruments of gaming found upon such search.

On conviction for keeping gaming-house, instruments of gaming to be destroyed, &c.

13. On conviction of any person for keeping any such common gaming-house or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money, and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all monies seized therein, to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Portion of fine may be paid to informer.

14. The Magistrate may direct any portion, not exceeding one-fourth, of any fine which shall be levied under sections 10 and 11 of this Act, or any part of the monies, or proceeds of articles seized and ordered to be forfeited under section 13, to be paid to an informer.

Gambling in streets.

15. A Police-officer may apprehend without warrant any person found gaming with cards, dice, counters, money or other instruments of gaming, in any public street, place or thoroughfare; and such person shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month; and such instruments of gaming and money shall be forfeited.[a]

ACT No. XL of 1858.

Received the Governor General's assent on the 11th of December 1858.

An Act for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal.[b]

Preamble.

WHEREAS it is expedient to make better provision for the care of the persons and property of minors not brought under the superintendence of the Court of Wards; It is enacted as follows:—

1. [*Repealed by Act No. XIV of 1870.*]

Care of persons and property of minors not under Court of Wards.

2. Except in the case of proprietors of estates paying revenue to Government, who have been or shall be taken under the protection of the Court of Wards, the care of the persons of all minors (not being European British

[a] These sections are deemed to be in force in all places in the Panjáb to which Act No. III of 1867 has not been extended.

[b] Declared to be in force in the Panjáb, Act No. IV of 1872, s. 3 and schedule 1.

subjects)[a] and the charge of their property shall be subject to the jurisdiction of the civil Court.

Who may apply for certificate of administration.

3. Every person who shall claim a right to have charge of property in trust for a minor under a will or deed, or by reason of nearness of kin, or otherwise, may apply to the civil Court for a certificate of administration;

No person to institute or defend suit without certificate.

and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge until he shall have obtained such certificate:

Power to allow relative of minor to act.

Provided that, when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a minor to institute or defend a suit on his behalf, although a certificate of administration has not been granted to such relative.

Who may apply to Court to appoint person to take charge of minor's property, &c.

4. Any relative or friend of a minor in respect of whose property such certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the district, may apply to the civil Court to appoint a fit person to take charge of the property and person of such minor.

Application where property in more than one district.

5. If the property be situate in more than one district, any such application as aforesaid shall be made to the civil Court of the district in which the minor has his residence.

Procedure of Court on application.

6. When application shall have been made to the civil Court either by a person claiming a right to have charge of the property of a minor, or by any relative or friend of a minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same.

On the day so fixed, or as soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case.

Reference of enquiry to subordinate Court.

Provided always that it shall be competent to the civil Court to direct any Court subordinate to it to make such enquiry and report the result.

Certificate of administration to whom to be granted.

7. If it shall appear that any person claiming a right to have charge of the property of a minor is entitled to such right by virtue of a will or deed, and is willing to undertake the trust, the Court shall grant a certificate of administration to such person.

If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a certificate to such relative.

Court may

The Court may also, if it think fit (unless a guardian have been appointed

[a] As to them, see Act No. XIII of 1874.

appoint guardian.

by the father), appoint such person as aforesaid or such relative or any other relative or friend of the minor, to be guardian of the person of the minor.

Court may call for report as to relative or friend.

8. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the minor who may be desirous or willing to be entrusted with the charge of his property or person.

Proceeding if no title to certificate be established, and if there be no relative fit to be entrusted with property.

9. If no title to a certificate be established to the satisfaction of the Court by a person claiming under a will or deed, and if there be no near relative willing and fit to be entrusted with the charge of the property of the minor, and the Court shall think it to be necessary for the interest of the minor that provision should be made by the Court for the charge of his property and person, the Court may proceed to make such provision in the manner hereinafter provided.

When Court may grant certificate to Public Curator or other person.

10. If the estate of the minor consist of moveable property or of houses, gardens or the like, the Court may grant a certificate to the Public Curator appointed under section 19, Act XIX of 1841[a] *(for the protection of moveable and immoveable property against wrongful possession in certain cases)*, or, if there be no Public Curator, to any fit person whom the Court may appoint for the purpose.

Appointment of guardian.

11. Whenever the Court shall grant a certificate of administration to the estate of a minor to the Public Curator or other person as aforesaid, it shall at the same time appoint a guardian to take charge of the person and maintenance of the minor.

The person to whom a certificate of administration has been granted, unless he be the Public Curator, may be appointed guardian.

Guardian's allowance

If the person appointed to be guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance, to be paid out of the estate of the minor, as under the circumstances of the case it may think suitable.

Minor's allowance.

The Court may also fix such allowance as it may think proper for the maintenance of the minor; and such allowance and the allowance of the guardian (if any) shall be paid to the guardian by the Public Curator or other person as aforesaid.

When Court may direct Collector to take charge of estate. Appointment of manager and guardian thereupon.

12. If the estate of the minor consist, in whole or in part, of land or any interest in land, the Court may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a manager of the property of the minor and a guardian of his person, in the same manner and subject to the same rules in respect of such appointments and of the duties to be per-

[a] See General Acts, vol. I, p. 40.

formed by the manager and guardian respectively, so far as the same may be applicable, as if the property and person of the minor were subject to the jurisdiction of the Court of Wards.

Costs of enquiries.

13. In all enquiries held by the civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application the enquiry was made, or out of the estate of the minor or otherwise, as it may think proper.

When civil Court may direct Collector to retain charge of shares and persons of certain minors.

14. Whenever one or more of the proprietors of an estate, which has come under the jurisdiction of the Court of Wards on account of the disqualification of all the proprietors, ceases to be disqualified, and the estate, in consequence, ceases to be subject to the jurisdiction of the Court of Wards, notwithstanding the continued disqualification of one or more of the co-proprietors, the Collector of the district in which the estate is situate may represent the fact to the civil Court; and the Court, unless it see sufficient reason to the contrary, shall direct the Collector to retain charge of the persons, and of the shares of the property, of the still disqualified proprietors, during the continuance of their disqualification, or until such time as it shall be otherwise ordered by the Court.

The Collector shall in such case appoint a guardian for the care of the persons, and a manager for the charge of the property, of the disqualified proprietors, in the manner prescribed in section 12.

Provision for case of estates situated in more than one district.

If the property be situate in more than one district, the representation shall be made by the Collector who had the general management of the property under the Court of Wards, to the civil Court of his own district, and the orders of the Court of that district shall have effect also in other districts in which portions of the property may be situate.

Control of proceedings of Collector.

15. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities.

Public Curator, &c., to furnish inventory

16. The Public Curator and every other administrator to whom a certificate shall have been granted under section 10 shall, within six months from the date of the certificate, deliver in Court an inventory of any immoveable property belonging to the minor, and of all such sums of money, goods, effects and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same.

and annual accounts.

And the Public Curator and every such other administrator shall furnish annually, within three months from the close of the year of the era current in the district, an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate, and the balance in hand.

Proceeding if accuracy of inventory or

If any relative or friend of a minor or any public officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or

account be impugned.

of any annual account, the Court may summon the curator or administrator and enquire summarily into the matter, and make such order thereon as it shall think proper, or the Court at its discretion may refer such petition to any subordinate Court.

Payment of surplus into treasury.

17. All sums received by the Public Curator or such other administrator on account of any estate, in excess of what may be required for the current expenses of the minor or of the estate, shall be paid into the public treasury on account of the estate, and may be invested from time to time in the public securities.

Investment.

Powers of person to whom certificate granted, in management of minor's estate.

18. Every person to whom a certificate shall have been granted under the provisions of this Act, may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a minor, and may collect and pay all just claims, debts and liabilities due to or by the estate of the minor.

But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the civil Court previously obtained.

Relative or friend may sue for account.

19. It shall be lawful for any relative or friend of a minor, at any time during the continuance of the minority, to sue for an account from any manager appointed under this Act, or from any person to whom a certificate shall have been granted under the provisions of this Act, or from any such manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Continuance of suit after disqualification ceases.

20. If the disqualification of a person for whose benefit a suit shall have been instituted under this Act cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Revocation of certificate.

21. The civil Court for any sufficient cause may recall any certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a certificate to the Public Curator or any other person as the case may be; and may compel the person whose certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all monies received and disbursed by him.

Removal of guardian.

The Court may also for any sufficient cause remove any guardian appointed by the Court.

Penalty for neglect or refusal to deliver accounts or property

22. The civil Court may impose a fine not exceeding five hundred rupees on any person who may wilfully neglect or refuse to deliver his accounts, or any property in his hands, within the prescribed time, or a time fixed by the

Court ; and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court ; and may also commit the recusant to close custody until he shall consent to deliver such accounts or property.

Civil Court may permit resignation of trust, &c.

23. The civil Court may permit any person to whom a certificate shall have been granted under this Act not being the Public Curator, and any guardian appointed by the Court, to resign his trust ; and may give him a discharge therefrom on his accounting to his successor, duly appointed, for all monies received and disbursed by him, and making over the property in his hands.

Remuneration of Public Curator, &c.

24. The Public Curator and every other administrator to whom a certificate shall have been granted under section 10, shall be entitled to receive such commission not exceeding five *per centum* on the sums received and disbursed by him, or such other allowance, to be paid out of the minor's estate, as the civil Court shall think fit.

Guardians of minors to provide for their education.

25. Every guardian appointed by the civil Court, or by the Collector, under this Act, who shall have charge of any male minor, shall be bound to provide for his education in a suitable manner.

Act XXVI of 1854 declared applicable.

The general superintendence and control of the education of all such minors shall be vested in the civil Court or in the Collector, as the case may be ; and the provisions of Act XXVI of 1854[a] (*for making better provision for the education of male minors subject to the superintendence of the Court of Wards*) shall, so far as is consistent with the provisions herein contained, be applicable to the civil Court, or to the Collector, as the case may be, in respect to such minors, and to every such guardian.

Persons under 18 years held minors.

26. For the purposes of this Act, every person shall be held to be a minor who has not attained the age of eighteen years.

Act not to authorize appointment of guardians of certain married women and other persons.

27. Nothing in this Act shall authorize the appointment of a guardian of the person of a female whose husband is not a minor, or the appointment of a guardian of the person of any minor whose father is living and is not a minor ; and nothing in this Act shall authorize the appointment of any person other than a female as the guardian of the person of a female.

Guardianship in certain cases when to cease.

If a guardian of the person of a minor be appointed during the minority of the father or husband of the minor, the guardianship shall cease as soon as the father or husband (as the case may be) shall attain the age of majority.

Appeals.

28. All orders passed by the civil Court or by any subordinate Court under this Act, shall be open to appeal under the rules in force for appeals, in miscellaneous cases, from the orders of such Court and the subordinate Courts.

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[a] See *supra*, p. 18.

Construction of "Civil Court." Powers of Supreme Court not affected.

29. The expression "Civil Court" as used in this Act shall be held to mean the principal Court of original jurisdiction in the district, and shall not include the Supreme Court; and nothing contained in this Act shall be held to affect the powers of the Supreme Court over the person or property of any minor subject to its jurisdiction.

Number. Gender.

Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

ACT No. III of 1867.

Received the Governor General's assent on the 25th of January 1867.

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Panjáb, Oudh, the Central Provinces and British Burma.

Preamble.

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories respectively subject to the governments of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William, of the Lieutenant-Governor of the Panjáb, and to the administrations of the Chief Commissioner of Oudh, of the Chief Commissioner of the Central Provinces, and of the Chief Commissioner of British Burma; It is hereby enacted as follows:—

Interpretation-clause.

1. In this Act—

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor of the said North-Western Provinces or the Panjáb, as the case may be:

"Chief Commissioner."

"Chief Commissioner" means the Chief Commissioner of Oudh, the Central Provinces or British Burma, as the case may be:

"Common gaming-house."

"Common gaming-house" means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever:

Number.

Words in the singular include the plural and *vice versâ*, and

Gender.

Words denoting the masculine gender include females.

Power to extend Act.

2. Sections 13, 17 and 18 of this Act shall extend to the whole of the said territories; and it shall be competent to the Lieutenant-Governor or the

Chief Commissioner, as the case may be, whenever he may think fit, to extend, by a notification to be published in three successive numbers of the official Gazette, all or any of the remaining sections of this Act to any city, town, suburb, railway-station-house and place being not more than three miles distant from any part of such station-house within the territories subject to his government or administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb or station-house, and from time to time to alter the limits so defined.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

Penalty for owning or keeping, or having charge of, gaming-house.

3. Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room or place, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house; and

whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house; and

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding three months.

Penalty for being found in gaming-house.

4. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding one month;

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorise Police to enter and search.

5. If the Magistrate of a district, or other officer invested with the full powers of a Magistrate, or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place is used as a common gaming-house,

he may either himself enter, or by his warrant authorize any officer of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, walled enclosure, room or place,

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all monies and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, &c., in suspected houses, to be evidence that such houses are common gaming-houses.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming are found in any house, walled enclosure, room or place, entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-officer, or any of his assistants.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon conviction before the same or any other Magistrate be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

On conviction for keeping gaming-house, instruments of

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to

be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all monies seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled. gaming to be destroyed.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake. Proof of playing for stakes unnecessary.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place, or any part thereof, of any Magistrate or officer authorized as aforesaid. Magistrate may require any person apprehended to be sworn and give evidence.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming. Witnesses indemnified.

12. Nothing in the foregoing provisions of this Act contained, shall be held to apply to any game of mere skill wherever played. Act not to apply to certain games.

Gaming and setting birds and animals to fight in public streets.

13. A Police-officer may apprehend without warrant

any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill, in any public street, place or thoroughfare situated within the limits aforesaid, or

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals.

Such person when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month;

Destruction of instruments of gaming found in public streets.

and such Police-officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may on conviction of the offender order such instruments to be forthwith destroyed.

Offences by whom triable.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure, as to the amount of fine or imprisonment he may inflict.

Penalty for subsequent offence.

15. Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description :

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

Portion of fine may be paid to informer.

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the monies or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Recovery and application of fines.

17. All fines imposed under this Act may be recovered in the manner prescribed by section 307 of the Code of Criminal Procedure,[a] and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall from time to time direct.

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[a] See Act No. X of 1872, section 2 and schedule V.

ACT No. VI of 1867.

Received the Governor General's assent on the 1st of February 1867.

An Act to enable the Lieutenant-Governor of the Panjáb to alter the limits of existing districts in any part of the territories under his government.

Preamble. WHEREAS it is expedient to empower the Lieutenant-Governor of the Panjáb to alter the limits of existing districts in the territories under his government; It is hereby enacted as follows:—

Power to alter districts. 1. It shall be lawful for the Lieutenant-Governor of the Panjáb, by a notification in the local Gazette, from time to time to alter the limits of existing districts in any part of the territories under his government.

Saving of Governor General's power under Act XXI of 1836. 2. Nothing contained in this Act shall affect the power conferred on the Governor General of India in Council by Act No. XXI of 1836.

ACT No. XXIII of 1867.

Received the Governor General's assent on the 18th of March 1867.

An Act for the suppression of murderous outrages in certain Districts of the Panjáb.

Preamble. WHEREAS in certain districts of the Panjáb, fanatics have frequently murdered or attempted to murder servants of the Queen and other persons: And whereas the general law of the country is not adequate to suppress such offences; It is hereby enacted as follows:—

Lieutenant-Governor empowered to extend Act to any part of Panjáb. 1. It shall be lawful for the Lieutenant-Governor of the Panjáb, with the previous consent of the Governor General of India in Council, by a proclamation published in the official Gazette, from time to time to declare any part or parts of the territories under his government to be subject to the operation of all or any of the provisions of this Act,[a] and also, by such proclamation and with such consent as aforesaid, from time to time to withdraw from the operation of such provisions any part or parts of the said territories which he may previously have declared to be subject thereto, and in like manner, as occasion shall require, to subject the same part or parts again to the operation of the same provisions or of any of them.

Punishment of fanatics murdering 2. Any fanatic who shall murder or who shall, within the meaning of the Indian Penal Code, section 307, attempt to murder any servant of the Queen

[a] The districts of Pesháwar, Kohát, Hazára, Dera Ghází Khán, Dera Ismáil Khán and Bannu have been declared subject to all the provisions of this Act.

or attempting to murder.

or other person, shall, on conviction thereof, be punished either with death or with transportation for life, and all his property shall be forfeited to Government.

3. [*Repealed by Act No. XVI of 1874.*]

Forfeiture of property and disposal of bodies of fanatics killed in committing outrages punishable under Act.

4. Whenever any fanatic shall be killed in the act of committing any such offence as aforesaid, or, being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the Sessions Judge or Commissioner who, under the provisions hereinafter contained, would have had cognizance of the offence if the offender could have been brought to trial, to proceed to hold an inquest into the circumstances of the death of the offender, and on proof of his having been killed as aforesaid, or of his having died of wounds received as aforesaid, to adjudge that the whole of his property shall be forfeited to Government and to dispose of his body as such Sessions Judge or Commissioner shall think fit.

Trial before Commissioner.

5. Subject to the provision contained in section 14 of this Act, any offence triable under this Act shall be tried by the Sessions Judge or Commissioner of the Division in which it has been committed; and in respect of all such offences, the Sessions Judge or Commissioner shall follow the procedure prescribed for a Magistrate by section 149, chapter XVII, and the provisions applicable to warrant-cases of the Code of Criminal Procedure:[a]

Provided that, if he shall be of opinion that any witness or evidence is offered for the purpose of vexation or delay, or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness or evidence is material, and if the Sessions Judge or Commissioner be not so satisfied, he shall not be bound to summon the witness or examine the evidence so offered.

Trial to be with aid of assessors.

6. Trials under this Act before the Sessions Judge or Commissioner shall be conducted with the aid of two or more assessors as members of the Court.

The Sessions Judge or Commissioner may appoint such persons (other than persons specified in section 405[b] of the Code of Criminal Procedure) at such time and in such manner as he may think fit to serve as assessors, and no persons shall be exempt, within the meaning of section 406[c] of the same Code, from serving as such assessors.

The provisions of the Code of Criminal Procedure shall, save as aforesaid, apply to assessors appointed under this section.

What the judgment is to specify.

7. When any trial under this Act is concluded, if the accused person be convicted, it shall be sufficient if the Court, in passing judgment and in recording the finding and sentence, shall specify the offence of which he is convicted,

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a, b, c See Act No. X of 1872, section 2 and schedule V.

and the Court shall immediately issue a warrant to the officer in charge of the jail in which the prisoner is confined to cause the sentence to be carried into execution, and such sentence shall be carried into execution accordingly.

No sentence of death passed under this Act shall require confirmation by any Court.

Disposal of bodies of criminals sentenced to death.

8. When any person shall be sentenced to death under this Act, his body shall be disposed of as the Sessions Judge or Commissioner by whom he was so sentenced shall direct.

Proceedings to be reported to Lieutenant-Governor.

9. The proceedings in every trial held under this Act shall be reported to the Lieutenant-Governor, without unnecessary delay, by the officer before whom such trial shall have been held.

No appeal from orders or sentences under Act.

10. Notwithstanding anything contained in the Code of Criminal Procedure or "The Panjáb Chief Court Act, 1866,"[a] no appeal shall lie from any order or sentence under this Act.

Procedure when Sessions Judge or Commissioner thinks offender's crime not contemplated by Act.

11. If any Sessions Judge or Commissioner in whom jurisdiction is vested by this Act shall be of opinion that the accused person has committed an offence punishable under the Indian Penal Code, but that such offence is not contemplated by the preamble to this Act, the offender shall be dealt with in manner provided in such case by the Code of Criminal Procedure.

Lieutenant-Governor's powers as to confinement of persons under Act.

12. The said Lieutenant-Governor shall have, with respect to the confinement of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in the Governor General of India by any law regarding the confinement of persons charged with or suspected of State-offences;[b] and the provisions of any such law shall, *mutatis mutandis*, be applicable to all cases in which the Lieutenant-Governor shall proceed under the authority of this section.

Power of Magistrate as to persons suspected.

13. Any person having the full powers of a Magistrate may cause any person against whom there are in his judgment grounds of proceeding under the last preceding section, to be apprehended; and after such enquiry as he may think necessary, may detain such person in safe custody until he shall have received the orders of the said Lieutenant-Governor, to whom, in all such cases, he shall report his proceedings without unnecessary delay.

Exercise of jurisdiction conferred by Act.

14. The jurisdiction conferred by this Act on a Sessions Judge or Commissioner may be exercised, in the case of any offence punishable under this Act, by any person having the full powers of a Magistrate whom the Sessions Judge or Commissioner to whom he may be subordinate, or the said Lieu-

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[a] Repealed by Act No. XVII of 1877.
[b] See Regulation III of 1818, *supra*, p. 9.

tenant-Governor, shall, after the commission of such offence, specially invest with such jurisdiction.

Power to withdraw any class of cases from operation of Act.

15. It shall be lawful for the said Lieutenant-Governor, either on his own motion or at the request of the Chief Court of the Panjáb, from time to time to withdraw any class of cases from the operation of this Act.

Power to issue circular orders.

16. With the previous consent of the said Lieutenant-Governor, but not otherwise, the said Chief Court may, from time to time, make and issue circular orders for the guidance of officers in cases under this Act; provided that such orders are consistent with the provisions herein contained.

All such orders shall be published in the official Gazette, and shall be obeyed by the officers aforesaid.

Expiration of Act.

17. This Act shall expire in ten years from the date of passing it, or at such earlier date as the Governor General of India in Council may order.[a]

PANJÁB TENANCY ACT.

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[a] See Act No. IX of 1877, *infra*, p. 182.

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ACT No. XXVIII OF 1868.

Received the Governor General's assent on the 21st of October 1868.

An Act to define and amend the law relating to the tenancy of land in the Panjáb.

Preamble. WHEREAS it is expedient to define and amend the law relating to certain matters connected with the tenancy of land in the Panjáb; It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

Short title. 1. This Act may be called "The Panjáb Tenancy Act, 1868,"

Extent of Act. and shall extend only to the territories for the time being under the government of the Lieutenant-Governor of the Panjáb.

Saving of decrees and of agreements between landlords and tenants. 2. Nothing contained in this Act shall affect the operation of any decree of Court under which a tenant holds or of any agreement between a landlord and a tenant, when such agreement is in writing or recorded by the proper officer in the record of a regular settlement sanctioned by the Local Government.

All entries in such record, made previously to the passing of the Panjáb Land Revenue Act, 1871,[a] in respect of matters comprised in chapters III, IV, V and VI of this Act, shall, when attested by the proper officer, be deemed to be agreements within the meaning of this section.

3. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

"Land" means immoveable property for the time being subject to a settlement, whether regular or summary, of land-revenue: "Land."

"Rent" means whatever is payable by an occupant of land on account of the use or occupation thereof: "Rent."

Any instalment of rent which is not paid on or before the day when the same becomes due, whether under a written agreement or according to law or local usage, shall be deemed to be, for the purposes of this Act, an arrear of rent "Arrear of rent."

"Tenant" means any occupant of land liable to pay rent therefor, but does not include an under-proprietor: "Tenant."

"Landlord" means any person entitled to receive rent payable by a tenant: "Landlord."

"Grand-father" includes the father of an adoptive father, "uncle" the brother of an adoptive father, and "grand-uncle" the adoptive father of an uncle: "Grand-father," "uncle" and "grand-uncle."

"Representative" means an heir or any other person taking by operation of law or by will a beneficial interest in the property of a deceased person. "Representative."

4. [*Repealed by Act No. XIV of 1870.*]

CHAPTER II.—Of Rights of Occupancy.

5. Every tenant who—

(1) has heretofore paid no rent and rendered no service, in respect of the land occupied by him, to the proprietor thereof for the time being, beyond the amount of land-revenue and village-cesses for the time being chargeable thereon, and whose father and grand-father, uncle and grand-uncle occupying the same land, have paid no rent and rendered no service in respect thereof to such proprietor, beyond the amount aforesaid; Tenants having right of occupancy.

(2) or who has involuntarily parted or shall involuntarily part with proprietary rights in any land otherwise than by forfeiture to Government; and who has continuously occupied or shall continuously occupy such land or any part thereof from the time of such parting;

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[a] See Act No. XXXIII of 1871, sec. 21, *infra*.

(3) or who is, at the date of the passing of this Act, the representative of a person who settled as a cultivator in the village in which the land occupied by such tenant is situate along with the founders of the village;

(4) or who is or has been jágírdár of the village or any part of the village in which the land occupied by him as tenant is situate, and who has continuously occupied such land for not less than twenty years—

shall be deemed to have a right of occupancy in the land so occupied.

Presumption arising from entry in settlement-record.

6. Every tenant whose name appears in the records of a regular or revised settlement heretofore sanctioned by the Local Government, as having a right of occupancy in land which he or the person from whom he has immediately inherited has continuously occupied from the entry of his name or the name of such person (as the case may be) in such settlement, shall be presumed to have a right of occupancy in the land so occupied,

Rebuttal of presumption.

unless the landlord shall in a regular suit prove—

(1) that, within the thirty years immediately before the institution of such suit, other tenants of the same class in the same or in adjacent villages have ordinarily been ejected from their holdings at the will of the landlord; or

(2) that the tenant has voluntarily admitted, before any officer employed in making or revising a regular settlement of land-revenue or before any officer authorized to attest the entries in the record of such settlement, that he is a tenant not having a right of occupancy, and that such admission has been recorded at the time by the officer so employed or authorized.

Right of occupancy in land taken in exchange.

7. If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by him for other land belonging to the same landlord, the land taken in exchange shall, for the purposes of this Act, be held to be subject to the same right of occupancy as the land given in exchange would have been subject to if the exchange had not taken place.

Suits to establish rights of occupancy on other grounds.

8. Nothing herein contained shall be deemed to preclude any person claiming a right of occupancy on any ground other than the grounds hereinbefore specified from suing to establish such right.

Non-acquisition of right of occupancy by lapse of time.

9. No tenant shall be deemed to acquire a right of occupancy by mere lapse of time.

And no right of occupancy in the common lands belonging to a pattídárí village-community shall be acquired under this chapter.

CHAPTER III.—Of Rent.

1.—Enhancement.

Decree for enhancement of rent.

10. No tenant shall, in the absence of an agreement or decree of Court to the contrary effect, be held liable, in a suit for arrears of rent in respect of

any land, to pay rent exceeding in amount the rent payable by him in respect of such land for the last preceding agricultural year, unless a decree for the enhancement of the rent has been made as hereinafter provided.

The said Lieutenant-Governor shall have power, from time to time, by notification in the official Gazette, to declare for all or any of the districts under his government the day on which the agricultural year shall, for the purposes of this section, be deemed to commence.[a]

Grounds of enhancement.

11. The Court may decree that the rent previously payable by any tenant having a right of occupancy may be enhanced on any of the following grounds:—

1st Ground.—That the quantity of land held by him as tenant exceeds the quantity for which he has previously been liable to pay rent.

Rule.—In this case the Court shall decree rent for the land in excess at the same rate as that payable in respect of the land of a similar description and with similar advantages held by him of the same landlord.

2nd Ground.—That the rate of rent paid by him is below the rate of rent usually paid in the same or adjoining villages by the same class of tenants having a right of occupancy for land of a similar description and with similar advantages.

Rule.—In this case the Court shall enhance his rent to the amount claimed by the plaintiff not exceeding such rate.

3rd Ground.—That the rate of rent paid by him is,

if he belong to the class described in clause 1 of section five, more than fifty *per centum*,

if he belong to any of the classes specified in clause 2, 3 or 4 of section five, more than thirty *per centum*,

and if he belong to the class specified in section six, more than fifteen *per centum*,

below the rate of rent usually paid in the neighbourhood by tenants of the same class not having a right of occupancy, for land of a similar description and with similar advantages.

Rule.—In this case the Court shall enhance his rent to the amount claimed by the plaintiff not exceeding such rate, less fifty *per centum*, thirty *per centum* or fifteen *per centum*, as the case may be.

Enhancement when tenant pays revenue or cesses.

12. If the revenue or any of the village-cesses is payable by the defendant, the rate to which his rent may be enhanced shall be reduced by the amount so payable.

Suit for re-enhancement.

13. After a decree has been passed under section ten, no suit shall lie

[a] For the purposes of this section and section 28, the agricultural year has been declared to commence on the 16th June.

against the defendant for re-enhancement of his rent until the expiration of five years from the date of such decree, unless in the meantime there has taken place a general revision of regular settlement, under which the revenue payable for the land comprised in the decree has been increased.

2.—Abatement.

Grounds of right to abatement.

14. Every tenant having a right of occupancy shall be entitled to claim abatement of the rent previously paid by him on either of the following grounds, and on no others :—

(1) that the area of the land in his occupation has been diminished by diluvion or otherwise, or proved to be less than the quantity for which rent has been previously paid by him; or

(2) that the productive powers of such land have been decreased by any cause beyond his control.

3.—Remission.

When Court may allow remission from rent.

15. Notwithstanding anything hereinbefore contained, it shall be lawful for the Court, in making a decree for an arrear of rent,

if the area of the land in the tenant's occupation has been diminished by diluvion or otherwise,

or if the produce of such land has been diminished by drought or hail, or other calamity beyond his control, to such an extent that the full amount of rent payable by him cannot, in the opinion of the Court, be equitably decreed,

to allow such remission from the rent payable by him as may appear equitable :

Provided that, if the tenant hold a lease for an unexpired term of not less than five years, or have a right of occupancy, in a revenue-paying estate, no such remission shall be allowed to him, unless a remission of revenue has been allowed on the same ground and by competent authority in respect of the same estate.

4.—Rent in Kind.

Commutation of rent in kind.

16. No commutation of rent in kind into rent in money, and no commutation of rent in money into rent in kind, shall take place without the consent of both the landlord and the tenant.

Division and appraisement of produce taken for rent.

17. Whenever rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other procedure of a similar nature, requiring the presence of the person entitled to the rent and of the cultivator, either personally or by their recognized agents,

if either party neglects to be present at the proper period,

or if a dispute arises between the parties regarding such division, estimate or appraisement,

either party may present an application to the Court, requesting that a proper person be deputed to make the division, estimate or appraisement.

Procedure in case of dispute.

18. On receiving such application and such sum, to be paid in the first instance by the applicant, as the Court thinks sufficient to defray the costs of serving the notice and making the award next hereinafter mentioned, the Court shall issue a written notice to the other party, requiring him to attend on the date and at the place specified in the notice, and shall depute a proper person to make the division, estimate or appraisement and to direct by whom the costs of each party are to be paid.

The award of such person in respect of the said division, estimate or appraisement and costs shall be final, unless within three months from the date thereof either party institutes a suit to set it aside.

CHAPTER IV.—Of Ejectment.

Ejectment of tenant with right of occupancy.

19. No tenant having a right of occupancy in any land shall be ejected therefrom otherwise than in execution of a decree.

Such decree shall not be made, unless—

(1) at the date of the decree, a decree against such tenant for an arrear of rent in respect of such land has remained unsatisfied for fifteen days or upwards; or

(2) the landlord tenders to the tenant, in addition to any compensation to which he may be entitled under sections twenty-seven and thirty-seven (but subject to deduction in respect of the arrears of rent, if any, payable by him), such compensation as the Court thinks fit, not less than fifteen, and not more than thirty, times the amount of the nett annual profits receivable by the tenant in respect of such land on an average of the three years next before the date of the tender.

Nothing in the last preceding clause shall be deemed to apply to a tenant belonging to any of the classes specified in section five, or to a tenant when he or the person from whom he has inherited has continuously occupied such land for thirty years or upwards.

Ejectment of tenant without right of occupancy.

20. A tenant not having a right of occupancy may be ejected—

first, if a decree has been obtained against him for arrears of rent or for ejectment; or

second, when he is not holding under an unexpired lease, or an agreement, or a decree of Court, by notice given by the landlord in manner hereinafter mentioned.

Time of ejectment.

21. Notwithstanding anything herein contained, no tenant shall be ejected from the land in his occupation, except between the fifteenth day of April

and the fifteenth day of June, unless, while the rent in respect of such land is in arrear, he has failed to cultivate the land in accordance with the terms on which he holds it.

Notice of Ejectment.

Notice of ejectment.

22. The notice of ejectment shall be written in the vernacular language of the district: it shall specify the lands from which the tenant is to be ejected; and it shall inform him that, if he means to dispute the ejectment, he must institute a suit for that purpose on or before the fifteenth day of May next after the service of the notice, or quit the land on or before that date.

The said Lieutenant-Governor shall determine what, for the purposes of this section, shall be deemed to be the vernacular language of each district in the territories under his government.[a]

Service of notice.

23. On the landlord's application to the tahsíldár or other officer authorized to serve such notices, the notice shall be served by him on or before the fifteenth day of April, and the landlord shall pay the costs of service.

The notice shall, if practicable, be served personally on the tenant.

But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at some conspicuous place in the village wherein the land is situate.

Power to alter dates for suing to dispute, and for serving notice of, ejectment.

24. The said Lieutenant-Governor shall have power, from time to time, by notification published in the official Gazette not less than six months before such notification is to come into force, to fix, for the purposes of sections twenty-two and twenty-three, in all or any of the districts under his government, any two days other than the days fixed in the same sections:

Provided that, between the days so fixed by notification, there shall be an interval of at least one month.

Cessation of tenancy on failure to contest notice.

25. If the tenant on whom such notice of ejectment has been served fails to institute, on or before the fifteenth day of May next after the service, or, in case the said Lieutenant-Governor fixes for the purpose of section twenty-two any day other than the said fifteenth day of May, then on or before the day so fixed, a suit to contest his liability to be ejected, his tenancy of the land in respect of which the notice has been served shall be held to cease on that day.

Assistance to eject.

When assistance to eject may be given by Court.

26. If no such suit be brought, or if such suit be brought and dismissed, and the landlord require the assistance of the Court to eject any person whose tenancy is alleged to have ceased under the provisions of section twenty-two, he may apply for such assistance; and if the Court be satisfied that notice of

[a] For the purposes of this section Urdu has been determined to be the vernacular language of the Province.

ejectment was duly served on such person, it shall, subject to the provisions of section nineteen, give such assistance accordingly.

Nothing done by the Court under this section shall affect the right of any tenant to institute a suit against his landlord on account of illegal ejectment, and to recover compensation for the same.

Growing Crops.

Compensation to ejected tenant for growing crops.

27. Any tenant ejected in accordance with the provisions of this Act, shall be entitled to receive from the landlord the value of any growing crops or other ungathered products of the earth belonging to such tenant and being on the land at the time of the ejectment:

Provided that, if the land has been sown or planted by the tenant after the service on him of the notice mentioned in section twenty, he shall not be so entitled, unless, after such service, the landlord has expressly authorized him to continue to occupy the land.

CHAPTER V.—Of Relinquishment, Leases and Under-leases, Alienation and Succession.

1.—Relinquishment.

Relinquishment of land by tenant.

28. Every tenant shall be liable to pay the rent payable in respect of the land in his occupation for the ensuing agricultural year, unless, on or before the first day of January next before the commencement of that year, he gives notice to the landlord of his intention to relinquish such land before the commencement of such year, and relinquishes it accordingly, or unless the land has been let to any other person by the landlord.

Power to fix commencement of agricultural year for purposes of section 28.

29. The said Lieutenant-Governor shall have power from time to time, by notification in the official Gazette, to declare, for all or any of the districts under his government, the day on which the agricultural year shall, for the purposes of section twenty-eight, be deemed to commence, and, in lieu of the said first day of January, to substitute, for the purposes of section twenty-eight, in all or any of the same districts, such day as he thinks fit.

Discharge of tenant.

30. If the tenant relinquishes the land according to his said notice, he shall be discharged from all liability to pay the rent which would otherwise have accrued due in respect of such land after the date of the relinquishment.

Refusal to receive notice.

31. If the landlord or his recognized agent refuse to receive such notice, the tenant may apply to the tahsíldár or proper officer, and written notice shall thereupon be served by him on such landlord or agent, and the tenant shall pay the costs of service.

The notice shall, if practicable, be served personally on the landlord or agent.

But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at some conspicuous place in the village wherein the land is situate.

2.—Leases and Under-leases.

Right to let or under-let.

32. Every tenant having a right of occupancy may let or under-let the land in his occupation or any part thereof:

Saving of agreements not to let or sub-let.

Provided that nothing in the former part of this section shall be deemed to affect any agreement on the part of a lessee that he will not, or will not without the previous consent of the lessor or his representative, under-let or part with the possession of the said land or any portion thereof.

Liability of lessee and under-lessee.

33. Every person to whom land is let or under-let under section thirty-two shall, in respect of such land, and so far as regards the landlord and his representative, be subject to all the liabilities under this Act to which the lessor or under-lessor would have been subject in respect of such land, and so far as regards such landlord and his representative, in case the lease or under-lease had not been made.

3.—Alienation.

Right of tenant to alienate.

34. Any tenant having a right of occupancy claimable in accordance with the terms of any of the clauses of section five, may alienate the land in his occupation, or any part thereof:

Landlord's right of pre-emption.

Provided that, in every such case, the land or part aforesaid shall be offered for sale in the first instance to the landlord at the market-value, and shall not be alienated to any other person unless the landlord shall, for the space of one month, refuse or neglect to complete the purchase.

Every other tenant may alienate the land in his occupation, or any part thereof, with his landlord's previous consent, but not otherwise.

Rights and liabilities of tenant's alienee.

35. Every person other than the landlord, to whom land is alienated under section thirty-four, shall, in respect of such land, have the same rights and be subject to the same liabilities as the tenant making the alienation.

4.—Succession.

Succession to right of occupancy.

36. When a tenant having a right of occupancy in any land dies, his right shall devolve on his male lineal descendants (if any), and, failing such descendants, the right shall go to his male collateral relatives: Provided that the common ancestor of the deceased and his said relatives shall have occupied such land.

As among descendants and collateral relatives claiming under this section, such right shall devolve and go as if it were land left by the deceased in the village in which such land is situate.

CHAPTER VI.—Of Compensation for Tenants' Improvements.

Tenant's right to compensation for improvements.

37. If any tenant, or, in the case of a tenant with a right of occupancy, the person from whom he has inherited, makes any such improvements on the land in his occupation as are hereinafter mentioned, the rent payable by him or his representative in respect of such land shall not be enhanced, nor shall he or his representative be ejected from the same land, unless and until he or his representative, as the case may be, has received compensation for the money or labour, or both, expended in making such improvements by him, or the person from whom he has inherited, or whom he represents, within thirty years next before the date of such enhancement or ejectment.

"Improvements" defined.

38. The word "improvements," as used in section thirty-seven, means works by which the annual letting-value of the land has been, and at the time of demanding compensation continues to be, increased, and shall comprise—

1st, the construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage, and for protection against floods; the construction of wells, the reclaiming and clearing of waste-lands and other works of a like nature;

2nd, the renewal or reconstruction of any of the foregoing works, or such alterations therein, or additions thereto, as are not required for maintaining the same, and which increase durably their value.

Compensation how made.

39. Such compensation may, at the option of the landlord or his representative, be made—

(1) by payment in money;

(2) by the grant of a beneficial lease of the land by the landlord or his representative to the tenant or his representative; or

(3) partly by payment in money, and partly by the grant of such lease as aforesaid.

Provision for difference as to amount or value of compensation.

40. In case of difference as to the amount or value of the compensation tendered, either party may present an application to the Court stating the matter in dispute, and requesting a determination thereof.

Notice of such application shall be served on the other party by the proper officer, and the applicant shall pay the costs of service.

On receiving such application, the Court, after taking such evidence as the parties or either of them may adduce, and after making such further enquiry (if any) as it may deem necessary, shall determine (as the case may be) the amount of the payment, or the terms of the lease, or both:

Provided that, in determining such amount or value, the Court shall take into account any assistance given by the landlord, either directly by money,

material or labour at the time of making such improvements, or indirectly by subsequently allowing the tenant to hold at a rate of rent more favourable than the rate at which he otherwise would have held.

Tender of lease for twenty years to bar right to claim compensation.

41. If in any case a landlord tenders to a tenant a lease of the land in his occupation, for a term of not less than twenty years from the date of the tender, at the annual rent then paid by the tenant, or at such other annual rent as may be agreed upon, such tender, if accepted by the tenant, shall bar any claim by him or his representative in respect of improvements previously made on such land by the tenant or the person from whom he has inherited.

CHAPTER VII.—Of Procedure.

Civil Courts to hear cases under certain sections.

42. Cases cognizable under sections five, six, eleven, fourteen, nineteen, twenty and twenty-five, shall, unless otherwise provided for by any law for the time being in force, and subject to the provisions of section twenty-one of Act No. XIX of 1865[a] (*to define the jurisdiction of the Courts of Judicature of the Panjáb and its Dependencies*), be heard in the Civil Courts other than the Courts of Small Causes, unless when such Courts of Small Causes shall have been specially empowered by the Local Government, under Act No. XI of 1865,[b] section six, to hear such cases.

Applications under certain sections to be proceedings on revenue side.

Applications under sections seventeen, twenty-three, twenty-six and thirty-one shall be deemed to be proceedings on the revenue side: they shall be subject to the rules of procedure for the time being in force in such cases; and all orders on such applications shall be appealable to the Financial Commissioner of the Panjáb.

43. [*Repealed by Act No. VII of 1870.*]

Saving of procedure for recovery of rent.

44. The procedure now in force in the Panjáb for the recovery of rent shall, except in so far as it is inconsistent with the provisions of this Act, continue to be in force.

Confirmation of proceedings of settlement-officers.

45. All proceedings of officers of Government in making or revising, prior to the passing of this Act, settlements of land-revenue shall, so far as such proceedings are consistent with the provisions of this Act, and subject to appeal and revision when an appeal or a revision is provided, be deemed to have been taken in accordance with law.

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[a] Repealed by Act No. XVII of 1877. [b] See General Acts, vol. II, p. 800.

THE PRISONS ACT, 1870.

ARRANGEMENT OF SECTIONS.

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17. Deputy medical officer.
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54. Power to make supplementary prison-rules.
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ACT No. XXVI OF 1870.

Received the Governor General's assent on the 3rd of October 1870.

An Act to amend the law relating to prisons.[a]

WHEREAS it is expedient to amend the law relating to prisons in the North-Western Provinces, the Panjáb, Oudh, the Central Provinces and British Burma, and to provide rules for the regulation of such prisons; It is hereby enacted as follows:— Preamble.

CHAPTER I.—PRELIMINARY.

1. This Act may be called "The Prisons Act, 1870." Short title.

It extends only to the territories respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh, the Central Provinces and British Burma. Local extent.

2. [*Repealed by Act No. XII of 1873.*]

3. In this Act— Interpretation-clause.

"prison" means any gaol or penitentiary, and includes the airing-grounds or other grounds or buildings occupied for the use of the prison; "Prison."

"criminal prisoner" means any prisoner charged with or convicted of a crime; "Criminal prisoner."

and "civil prisoner" means any prisoner confined in a civil jail, or on the civil side of a jail. "Civil prisoner."

[a] See 26 & 29 Vic., cap. 126.

CHAPTER II.—Maintenance and Officers of Prisons.

Local Government to provide prison-accommodation.

4. The Local Government shall provide for the prisoners in the territories under such Government, accommodation in a prison or prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Temporary shelter of prisoners.

5. Whenever it appears to the Local Government that the number of prisoners in any prison is greater than can conveniently or safely be kept therein,

or whenever, from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made by such officer and in such manner as the Local Government from time to time directs, for the temporary shelter and safe custody of so many of the prisoners as cannot be conveniently or safely kept in the prison.

Prisoners for whom such temporary shelter is provided shall be subject to the same rules as if they were within the prison.

Inspector General of Prisons.

6. An Inspector General of Prisons shall be appointed in the North-Western Provinces by the Local Government, in the Panjáb by the Local Government, and in Oudh, the Central Provinces and British Burma, by the Governor General in Council.

In each Inspector General so appointed shall be vested (subject to the orders of the Local Government) the general control and superintendence of all prisons situate in the territories under such Government.

Officers of prison.

7. For every prison there shall be a superintendent, a medical officer (who may also be the superintendent), a gaoler and such subordinate officers as the Local Government thinks necessary.

Subject to the orders of the Governor General in Council, the Local Government may direct that for any specified prison there shall also be a deputy medical officer and a deputy gaoler.

Appointment of officers.

8. The Local Government shall appoint the superintendent and the medical officer and the deputy medical officer.

The superintendent (subject to the approval of the Inspector General of Prisons) shall appoint the gaoler and deputy gaoler.

The superintendent shall also appoint the subordinate officers.

Salaries, suspension and dismissal of officers.

9. Every officer appointed under this Act shall receive such salary as (subject to the approval of the Governor General of India in Council) the Local Government directs; and may be suspended or dismissed by the authority appointing him:

Provided that no gaoler or deputy gaoler shall be dismissed without the consent of the Inspector General of Prisons.

Any subordinate officer dismissed under this section may appeal to the Inspector General, whose orders on such appeal shall be final.

CHAPTER III.—Duties of Officers.

Generally.

Officers to obey superintendent.

10. All officers of a prison shall obey the directions of the superintendent: all subordinate officers shall perform such duties as may be directed by the gaoler with the sanction of the superintendent; and the duties of each subordinate officer shall be inserted in a book to be kept by him.

Officers not to sell or let to prisoners.

11. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner.

Officers not to contract with prisoners; nor to benefit by sales.

12. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison: nor, except so far as is expressly allowed by rules made under section fifty-four, shall he derive any benefit, directly or indirectly, from the sale of any article on behalf of the prison or belonging to a prisoner.

Superintendent.

Duties of superintendent.

13. Subject to the orders of the Inspector General of Prisons, the superintendent shall—

manage the prison in all matters relating to discipline, labour, expenditure, punishment and control:

correspond on all matters connected with the prison with and through the Inspector General:

submit to the Inspector General all bills of prison-expenditure with proper vouchers for audit:

report to the Inspector General from time to time, as they occur, all escapes and re-captures, and all outbreaks of epidemic disease:

send to the Inspector General returns of all prisoners sentenced to transportation:

periodically inspect all property of the Government in his charge, and report thereon to the Inspector General;

and, generally, obey all rules made under section fifty-four for the guidance of the superintendent.

The superintendent shall also obey all orders respecting the prison given by the Magistrate of the District, or the Deputy Commissioner, as the case

may be, and shall report to the Inspector General all such orders and the action taken thereon.

Medical Officer.

Power to make rules as to medical officer's duties.

14. The Local Government shall make rules as to each of the following matters:—

how often the medical officer shall visit the prison and see each prisoner:

the records to be made respecting sick prisoners:

periodical inspection of every part of the prison:

reports on its cleanliness, drainage, warmth and ventilation:

reports on the provisions, water, clothing and bedding supplied to the prisoners.

Medical officer to obey rules.

The medical officer shall obey such rules.

To report special cases.

15. Whenever the medical officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the medical officer shall report the case in writing to the superintendent, together with such directions as the medical officer thinks proper.

To make entries as to death of prisoners.

16. On the death of any prisoner, the medical officer shall forthwith record in writing the following particulars, namely,—

when the deceased was taken ill,

when the medical officer was first informed of the illness,

the nature of the disease,

when the prisoner died,

and (in cases where a *post mortem* examination is made) an account of the appearances after death,

together with any special remarks that appear to the medical officer to be required.

Deputy medical officer.

17. Where a deputy medical officer is appointed to a prison, he shall be competent to perform any duty required by this Act, or by any rule made hereunder, to be performed by the medical officer.

Subordinate medical officer.

When there is no deputy medical officer, or when his services are not available by reason of sickness or other cause, the Local Government may, by general or special order, appoint a subordinate medical officer to act as a substitute for the medical officer, and the subordinate medical officer so appointed shall perform all the duties of the medical officer.

Gaoler.

Residence of gaoler.

18. The gaoler shall reside in the prison, unless the superintendent permits him in writing to reside elsewhere. The gaoler shall not, without the Inspector General's sanction, be concerned in any other employment.

19. The gaoler shall deliver to the medical officer daily a list of such prisoners as are confined in punishment-cells. To deliver list of prisoners in punishment-cells.

20. Upon the death of a prisoner, the gaoler shall give immediate notice thereof to the superintendent. To give notice of death of prisoners.

21. The gaoler shall keep, or cause to be kept, the following records :— To keep enumerated books and accounts.

(1) a register of warrants ;

(2) a book showing when each prisoner is to be released ;

(3) a punishment-book for the entry of the punishments inflicted for prison-offences ;

(4) a visitors' book for the entry of any observations made by visitors to the prison ;

(5) a record of the money and other articles taken from prisoners ;

and all such other records as may be prescribed by rules made under section fifty-four.

22. The gaoler shall be responsible for the safe custody of the records to be kept by him under section twenty-one, and also for the commitments and all other documents confided to his care. Responsible for safe custody of documents.

23. The gaoler shall not be absent from the prison for a night without permission in writing from the superintendent; but if absent without leave for a night from unavoidable necessity, he shall report the fact and the cause of it to the superintendent. Not to be absent without leave.

24. Where a deputy gaoler is appointed to a prison, he shall be competent to perform any duty required by this Act or by any rule made under section fifty-four to be performed by the gaoler. Deputy gaoler.

Where there is no deputy gaoler, or where his services are not available by reason of sickness or other cause, the superintendent shall, when the gaoler is absent from the prison or temporarily incapacitated, appoint an officer of the prison to act as his substitute during such absence or incapacity, and the substitute so appointed shall have all the powers and perform all the duties of the gaoler.

Subordinate Officers.

25. The officer acting as gate-porter, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search any person suspected of bringing in spirits or other prohibited articles into the prison, or of carrying out any property belonging to the prison, and if any such articles or property be found, shall give immediate notice thereof to the gaoler. Powers of gate-porter.

26. Subordinate officers shall not be absent from the prison without leave from the superintendent, or from the gaoler, and before absenting themselves they shall leave their keys in the gaoler's office. Subordinate officers not to be absent without leave.

CHAPTER IV.—Admission, Removal and Discharge of Prisoners.

Prisoners to be searched on entrance.

27. When a prisoner is first admitted, and whenever he afterwards enters the prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Medical examination of criminal prisoners.

Every criminal prisoner shall also, as soon as possible after admission, be examined by the medical officer, who shall enter in a book, to be kept by the gaoler, a record of the state of the prisoner's health, and any observations which the medical officer thinks fit to add.

Effects of criminal prisoners retained.

28. All money or other effects in respect whereof no order of a competent Court has been made, and which may be brought into the prison by any criminal prisoner, or sent to the prison for his use, shall be placed in the custody of the gaoler.

Medical examination before removal and discharge of prisoners.

29. All prisoners, previously to being removed to any other prison, shall be examined by the medical officer.

No prisoner shall be removed to any other prison unless the medical officer certifies that the prisoner is free from any illness rendering him unfit for removal.

No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the medical officer, such discharge is safe.

CHAPTER V.—Discipline of Prisoners.

Requisitions of Act as to separation of prisoners.

30. The requisitions of this Act, with respect to the separation of prisoners, are as follows:—

(1.)—In a prison containing female prisoners as well as males, the women shall be imprisoned in separate buildings or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the men.

(2.)—In a prison where children under 12 years of age are confined, means shall be provided for separating them altogether from the other prisoners.

(3.)—Criminal prisoners before trial shall be kept apart from convicted prisoners.

(4.)—Civil prisoners shall be kept apart from criminal prisoners.

Rules as to separate con-

31. The Local Government shall have power to make rules—

(1) as to what cells only shall be used for the separate confinement of prisoners:

(2) as to the time during which prisoners not guilty of offences against prison-rules may be confined separately.

Cells to be furnished with means of communication.

32. No cell shall be used for separate confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison.

Prisoners under sentence of death.

33. Every prisoner under warrant or order for execution shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the gaoler, and all articles shall be taken from him which the gaoler deems it dangerous or inexpedient to leave in his possession.

Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of an officer or guard.

CHAPTER VI.—Food, Clothing and Bedding of Prisoners.

Civil prisoner may maintain himself.

34. A civil prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General.

Civil prisoner not to sell provisions.

35. No part of any food, clothing, bedding or other necessaries belonging to any civil prisoner shall be sold to any other prisoner; and any civil prisoner transgressing this regulation shall lose the privilege of purchasing food or receiving it from private sources, for such time as the superintendent thinks proper.

Allowance of clothing and bedding.

36. Every civil prisoner unable to provide himself with sufficient clothing and bedding, shall be supplied by the superintendent with such clothing and bedding as may be necessary.

Judgment-creditor to defray such allowance.

When any such prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall be liable to pay to the superintendent on demand the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner shall be released.

CHAPTER VII.—Employment of Prisoners.

Work and earnings of civil prisoners.

37. Civil prisoners may, with the superintendent's permission, work and follow their respective trades and professions.

Civil prisoners finding their own implements and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements, or are maintained at the expense of the prison, shall be subject to a deduction, to be determined by the superintendent, for the use of implements and the cost of maintenance.

Examination by medical officer of labouring prisoners.

38. The medical officer shall, from time to time, examine the labouring prisoners while they are employed, and shall enter in his journal the name of any prisoner whose health he thinks likely to be injured by a continuance at hard labour, and thereupon such prisoner shall not again be employed at such labour until the medical officer certifies that he is fit for such employment.

But if the medical officer certifies that such prisoner may without detriment to his health be employed on some lighter kind of labour, it shall be lawful for the gaoler so to employ him.

Employment of prisoners sentenced to simple imprisonment.

39. Provision shall be made by the superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment.

The superintendent shall make rules as to the amount and nature of such employment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work, excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such prisoners.

CHAPTER VIII.—Health of Prisoners.

Names of sick prisoners to be reported to gaoler.

40. The names of prisoners desiring to see the medical officer or appearing out of health in mind or body shall be reported by the officer attending them to the gaoler.

Gaoler to report them to medical officer.

The gaoler shall, without delay, call the attention of the medical officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention,

and shall carry into effect the medical officer's written directions respecting alterations of the discipline or treatment of any such prisoner.

Entry of directions by medical officer

41. All directions given by the medical officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the medical officer himself or under his superintendence, shall be entered day by day in his journal, which shall have a separate column wherein entries shall be made by the gaoler, stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the gaoler thinks fit to make, and the date of the entry.

Infirmaries.

42. In every prison an infirmary or proper place for the reception of sick prisoners shall be provided.

CHAPTER IX.—Visits to and Correspondence of Prisoners.

Visits to prisoners.

43. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom prisoners before trial may desire to communicate.

The Local Government shall also impose such restrictions upon the communication and correspondence of prisoners with their friends as it thinks necessary for the maintenance of good order and discipline. Correspondence of prisoners.

44. The gaoler may demand the name and address of any visitor to a prisoner; and, when the gaoler has any ground for suspicion, may search visitors, or cause them to be searched, but the search shall not be in the presence of any prisoner or of another visitor. Power of gaoler as to visitors.

In case of any such visitor refusing to be searched, the gaoler may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in his journal.

CHAPTER X.—Offences in Relation to Prisons.

45. Whoever, contrary to the regulations of the prison, brings, throws or attempts by any means whatever to introduce into any prison, or any place provided under section five for the temporary shelter and safe custody of prisoners, any spirituous or fermented liquor, or tobacco, or intoxicating or poisonous drug, Carrying liquor, tobacco or drugs into prison,

and every officer of a prison who knowingly suffers any such liquor, tobacco or drug to be sold or used in such prison or place contrary to such regulations, suffering liquor, &c., to be sold or used in prison,

and whoever, contrary to such regulations, conveys, or attempts to convey, any letter or other article not allowed by such regulations into or out of any such prison or place, carrying letters into and out of prison,

and whoever abets within the meaning of the Indian Penal Code any offence made punishable by this section, abetment of such offences.

shall, on conviction before a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

46. The superintendent shall cause to be affixed, in a conspicuous place outside the prison or the place provided as aforesaid, a notice setting forth the penalties incurred by persons committing any offence under section forty-five. Notice of penalties to be placed outside prison.

CHAPTER XI.—Prison-offences.

47. The following acts are declared to be offences against prison-discipline:— List of prison-offences.

(1) wilful disobedience to the regulations of the prison by any prisoner;

(2) assaults or use of criminal force by any prisoner;

(3) insulting or threatening language by any prisoner to any officer or prisoner;

(4) indecent or disorderly behaviour by any prisoner;

(5) wilfully disabling himself from labour;

(6) contumaciously refusing to work;

(7) filing or cutting irons or bars;

(8) idleness or negligence at work by any convicted criminal prisoner;

(9) wilful mismanagement of work by any convicted criminal prisoner;

(10) wilful damage to prison-property;

(11) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

Superintendent's power to punish prison-offenders.

48. The superintendent may examine any person touching such offences, and determine thereupon, and punish such offences—

(1) by imprisoning the offender in solitary confinement for any time not exceeding seven days;

(2) by ordering the offender for any time not exceeding three days to close confinement, to be there kept upon a diet reduced to such extent as the Local Government shall prescribe;

(3) by corporal punishment not exceeding thirty stripes of a ratan; or

(4) where the offender is not sentenced to rigorous imprisonment, by hard labour for any time not exceeding seven days.

The gaoler shall enter in a separate book, called the punishment-book, a statement of the nature of any offence that has been punished under this section, with the addition of the name of the offender, the date of the offence, and the amount of punishment inflicted. Such statement shall be signed by the superintendent.

Punishment of prisoners by Magistrate.

49. If any prisoner is guilty of repeated offences against prison-discipline, or is guilty of any offence against prison-discipline which the superintendent thinks is not adequately punishable under section forty-eight, the superintendent shall report the same to the Magistrate of the district or any Magistrate empowered to receive complaints without reference by the Magistrate of the district.

Such Magistrate shall have power to inquire upon oath and to determine concerning any matter so reported to him, and to sentence the offender to be punished

by confinement in a punishment-cell or in irons for any term not exceeding six months,

or by corporal punishment not exceeding thirty stripes of a ratan,

or by rigorous imprisonment for a term not exceeding six months, such term to be in addition to the term for which he is undergoing imprisonment.

Nothing in this or the last preceding section shall authorize the infliction of corporal punishment, or confinement in irons, on any female prisoner or any civil prisoner.

Corporal punishment.

50. All corporal punishment within the prison shall be inflicted in the presence of the superintendent, subject to the law for the time being in force relating to the infliction of corporal punishment and the precautions to be taken in reference thereto.

Penalty on officers ill-treating prisoners or violating rules.

51. Every gaoler and subordinate officer of a prison ill-treating any prisoner, or wilfully violating or neglecting any rule contained in this Act or made under section fifty-four, shall be liable, on conviction before the superintendent, to fine not exceeding one hundred rupees, or on conviction before a Magistrate not being the superintendent, to fine not exceeding two hundred rupees, or rigorous imprisonment for a term not exceeding one month, or both.

Any fine imposed by the superintendent under this section may be recovered, either by deductions from the convicted officer's salary and allowances, or under the law for the time being in force for the recovery of fines.

No person shall, under this section, be punished twice for the same offence.

CHAPTER XII.—Miscellaneous.

Confinement in irons of prisoners sentenced to rigorous imprisonment.

52. Whenever the superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, the superintendent may so confine them.

Confinement in irons by gaoler of his own authority.

53. Except in case of urgent necessity, no prisoner shall be put in irons or under mechanical restraint by the gaoler of his own authority, and notice thereof shall be forthwith given to the superintendent.

Except in case of urgent necessity, no prisoner shall be kept in irons or under mechanical restraint for more than twenty-four hours, without an order in writing from the superintendent specifying the cause thereof, and the time during which the prisoner is to be kept in irons or under mechanical restraint. Such order shall be kept by the gaoler as his warrant.

Power to make supplementary prison-rules.

54. The Local Government may, from time to time, make rules consistent with this Act,

(1) for the government of prisons and for the guidance of all officers appointed hereunder:

(2) as to sales of articles on behalf of prisons or belonging to prisoners, and as to the commission receivable thereon:

(3) as to the food and clothing of criminal prisoners:

(4) for the employment and control of convicts within or without prisons, and for the guidance of the guards in charge of such convicts:

(5) for remission of sentences:

(6) for rewards for good conduct; and

(7) for the appointment and guidance of visitors of prisons.

Copies of such rules, so far as they affect the government of prisons, shall be exhibited in some place to which all persons employed within a prison have access.

Present rules.

55. All rules now in force relating to any of the matters mentioned in sections fourteen, thirty-one, thirty-nine and fifty-four shall, so far as such rules are consistent with this Act, be deemed to have been made under those sections respectively.

Exercise of powers of superintendent.

56. All or any of the powers and duties conferred and imposed by this Act on a superintendent may be exercised and performed by such other officer as the Local Government from time to time appoints in this behalf.

THE EXCISE ACT, 1871.

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ACT No. X OF 1871.

Received the Governor General's assent on the 24th of March 1871.

An Act to consolidate and amend the laws relating to the Excise-Revenue in Northern India, British Burma and Coorg.

Preamble.

WHEREAS it is expedient to consolidate and amend the laws in force in Northern India, British Burma and Coorg relating to the manufacture of spirits, the sale of spirituous and fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called "The Excise Act, 1871:"

Local extent

It extends to the territories respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burma and Coorg.

2. [*Repealed by Act No. XII of 1873.*]

Interpretation-clause "Chief Revenue Authority."

3. In this Act,

"Chief Revenue Authority" means—

in the territories subject to the Lieutenant-Governor of the North-Western Provinces—the Board of Revenue,

in the Panjáb and Oudh—the Financial Commissioner, and

in the Central Provinces, British Burma and Coorg—the Chief Commissioner:

"Collector." "Collector" includes any revenue-officer in independent charge of a district and a superintendent of excise-revenue:

"Magistrate." "Magistrate" means any Magistrate exercising powers not less than those of a subordinate Magistrate of the first class:

"Country-spirit." "Country-spirit" means any spirit made by the Native process of distillation:

"Intoxicating drugs." "Intoxicating drugs" includes gánja, bháng, charas, opium and every preparation and admixture of the same.

Saving of Act No. XVI of 1863. 4. Nothing herein contained affects Act No. XVI of 1863[a] (*to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry*).

II.—Manufacture of Spirits and Fermented Liquor.

English distilleries not to be constructed or worked without license. 5. No person shall construct or work a distillery after the manner in which distilleries are constructed and worked in England, without a license under the hand of the Collector of the district in which such distillery is situated.

Chief Revenue Authority to prescribe rules for regulating English distilleries. 6. The Chief Revenue Authority may from time to time make rules relative to—

(*a*) the granting of licenses under section five;

(*b*) the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work;

(*c*) the size and description of the stills;

(*d*) the passing and storing of the spirits;

(*e*) the inspection and examination of the distillery and warehouses, and of the spirits manufactured and stored therein;

(*f*) the furnishing of statements and lists of such spirits, and of the stills, coppers, casks and other utensils used in the distillery.

Collectors may establish distilleries for country-spirits. 7. The Collector, with the sanction of the Chief Revenue Authority, may—

(*a*) establish, at any place within his jurisdiction, a distillery in which spirits may be manufactured after the Native process,

(*b*) from time to time fix limits within which no country-spirits, except such as are manufactured at the said distillery, shall be introduced or sold without a special pass from the Collector, and within which no stills shall be constructed or worked, or spirits manufactured, except at the said distillery, and

(*c*) discontinue any distillery so established.

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[a] See General Acts, Vol. I, p. 630.

Chief Revenue Authority may prescribe rules for distilleries.

8. The Chief Revenue Authority may from time to time make rules relative to —

(*a*) the management of distilleries established under section seven;

(*b*) the conditions on which spirits may be manufactured in the said distilleries, and

(*c*) the passes to be issued for the conveyance of such spirits to the shops of the vendors.

Breweries not to be constructed or worked without license.

9. No person shall construct or work a brewery, or manufacture any description of malt liquor, without a license from the Collector.

The Chief Revenue Authority may from time to time make rules relative to the granting of licenses for constructing and working breweries.

Sanction to rules under sections 6, 8 and 9.

10. Except in the Central Provinces, British Burma and Coorg, the sanction of the Local Government is required to validate rules under sections six, eight and nine.

Prohibition of unlicensed manufacture of country-spirits.

11. No person shall manufacture spirits after the Native process except under license from the Collector.

III.—Sale of Spirits, Fermented Liquor and Intoxicating Drugs.

English spirits and fermented liquor not to be sold without license.

12. Spirituous liquors passed from distilleries worked according to the English method, fermented liquors manufactured at a licensed brewery, and spirituous and fermented liquors imported either by land or by sea, shall not be sold except under license from the Collector.

Fee for wholesale-license.

13. Persons taking out licenses for the wholesale vend of spirituous and fermented liquors as aforesaid shall pay, for every such license, such sum as the Chief Revenue Authority from time to time prescribes.

The license shall be current only during the official year, and in the district in which it is granted.

But travelling merchants may obtain, under such rules and restrictions as the Chief Revenue Authority from time to time prescribes, a general license authorizing them to sell by wholesale, in any district which they may visit in the course of their travel, without taking out a fresh license for that district.

Fee for retail-license.

14. Persons taking out licenses for the retail-sale of spirituous and fermented liquors as aforesaid shall pay for every such license such fee or tax as the Chief Revenue Authority fixes, and such fee or tax shall be payable at such periods as the said Authority directs.

What to be held a retail-sale.

Any sale of spirituous or fermented liquors as aforesaid, in less quantity than two imperial gallons or one dozen of quart-bottles, shall be held to be a retail-sale.

Country-spirits and drugs not to be sold without license.

15. No person shall sell spirits manufactured by the Native process, or tárí or pachwáí, or any intoxicating drug, except under license from the Collector.[a]

Tárí to be deemed a fermented liquor.

16. All the provisions relating to the sale or possession of fermented liquors contained in the following sections apply to the sale or possession of tárí, whether in a fermented state or otherwise; and all tárí, both fresh and fermented, is included in the expression "fermented liquors" as used in the following sections.

Proviso.

17. Provided that the Local Government may suspend the operation of all the provisions relating to tárí contained in this Act, with respect to any district in which the consumption of tárí in a fermented state is inconsiderable; and thereupon tárí may be possessed and sold without license in such district, notwithstanding anything contained in this Act.

Supply of opium to licensed vendors.

18. Opium shall be supplied to licensed vendors from the Government stores in such manner and at such prices as the Chief Revenue Authority from time to time directs; and no other description of opium shall be sold by such vendors.

The Local Government may, from time to time, by order, exempt any district from the operation of this section.

Sale of more than specified quantities of country-spirits, &c., prohibited.

19. Except for the supply of licensed vendors, or under a special order from such officer as the Local Government appoints in this behalf, country-spirits, tárí and pachwáí, and intoxicating drugs shall not be sold in larger quantities than are hereunder specified—

country-spirits, one ser;

tárí or pachwáí, four sers;

gánja or bháng, or any preparation or admixture thereof, one-quarter of a ser;

charas or opium, or any preparation or admixture thereof, five tolas weight.

And the sale of any such quantity as is herein allowed shall be deemed to be a retail-sale within the meaning of this Act.[b]

Restriction of sale of gánja and bháng.

20. No cultivator of the plants producing gánja or bháng shall sell any gánja or bháng to any one other than (*a*) a person licensed under section fifteen to sell the same or (*b*) a person duly authorised to purchase the same by pass or license from the Collector.

IV.—Duties.

Rate of duty to be levied on English spirits.

21. A duty shall be levied on spirits manufactured at distilleries worked according to the English method at the rate of three rupees the imperial

[a, b] See Act No. XXVI of 1872 (*infra*, p. 139), section 3.

gallon of the strength of London-proof, to be augmented or reduced in proportion to the strength of the spirit.

No spirits shall be removed from any such distillery or the warehouses connected therewith, upon which the aforesaid duty has not been paid, or for the duty chargeable on which a bond has not been executed as hereinafter provided.

For all spirits removed upon payment of duty or under bond, passes shall be issued by the Collector, which shall specify

(*a*) the quantity and strength of the spirit,

(*b*) the place of its destination,

(*c*) the person to whom it is consigned, and

(*d*) whether the duty has been paid or secured by bond.

Nothing in the former part of this section applies to British Burma.

Spirits from foreign territory subject to duty.

22. Spirituous liquors manufactured at any place in India beyond the limits of British India, shall, on passing such limits subject to this Act, be charged with the duty prescribed for proof-spirits in section twenty-one :

and any person found in possession of any such liquors, without a pass from the Collector certifying the payment of such duty, shall forfeit for every such offence a sum not exceeding two hundred rupees ; and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

Duty on country-spirits manufactured at distilleries established by Collector.

23. A duty shall be levied on spirits manufactured in distilleries established under section seven at such rate as the Chief Revenue Authority, with the sanction of the Local Government, may from time to time prescribe.

Duty on retail-sale of country-spirits, &c.

24. Whenever a license for the retail-sale of country-spirits, tárí, pachwáí or intoxicating drugs is granted under this Act, the Collector may demand, in consideration of the privilege granted, such tax or duty, or a tax or duty adjusted on such principles, as may from time to time be fixed by the Chief Revenue Authority.

Such tax or duty shall be specified in the license, and shall be payable at such periods as the said Authority may direct.

The Collector may grant special licenses for the sale of unfermented tárí only, at those periods of the year when the fresh juice is in request : fees may be demanded for such special licenses at a rate for each license to be fixed from time to time by the Chief Revenue Authority ; and the vendors shall not be subject to any other tax or duty in respect of such sale.

V.—Farm of Duties.

Power to farm out duties.

25. The Collector may, with the sanction of the Chief Revenue Authority, let in farm, for any period not exceeding five years, the duties leviable

on the retail-sale of spirituous or fermented liquors, or intoxicating drugs, or any description of such liquors or drugs in any district or division of a district.

Tenders for farm.

26. The Chief Revenue Authority may prescribe rules—

(*a*) for the invitation and acceptance of tenders for such farms,

(*b*) for the requisition of security for the due fulfilment of the engagements entered into by the farmers, and

(*c*) as to the form and conditions of the lease.

Any breach of such conditions shall render the lease liable to annulment.

Farmer to make arrangements with local manufacturers and vendors.

27. When the duties leviable on any of the articles above enumerated are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm;

and all the fines and forfeitures hereinafter prescribed, for the unlawful manufacture, sale or possession of any such article, shall be incurred by all persons manufacturing, selling or possessing the same without license or authority from the farmer.

List of licenses granted by farmer to be filed.

28. Every such farmer shall file in the Collector's office a list of all the licenses granted by him in such form as may be prescribed by the Chief Revenue Authority.

Restrictions as to grant of licenses.

The Collector, with the sanction of the said Chief Revenue Authority, may, before entering into engagements for any such farm, make such reservations or restrictions with respect to the grant of licenses as he thinks fit.

Lease may be cancelled.

29. The Collector may, with the sanction of the Chief Revenue Authority, cancel any lease granted under this Act; or may within the period of the lease impose any new restriction on the farmer.

Compensation to farmers in certain cases.

If a lease be cancelled for any cause other than a breach on the part of the farmer of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he sustains thereby as the Chief Revenue Authority thinks fit.

Recovery of arrears of tax or duty by farmers.

30. Every farmer of excise-revenue may use the same means and processes for the recovery of any arrear of tax or duty due to him from any authorized vendor, as may be lawfully used by zamíndárs and farmers of land for the recovery of arrears of rent due to them from their under-tenants.

VI.—Licenses.

Certain licensees to execute counterpart and

31. Every person taking out a license for the manufacture of country-spirits or for the retail-sale of spirituous or fermented liquors, or intoxicating drugs, shall execute a counterpart-engagement in conformity with the tenor

of the license, and shall give such security for the performance of his engagement or make such deposit in lieu of security, as the Collector may require. Form of security.

32. Unless otherwise especially authorized by the Chief Revenue Authority, licenses for retail-sale shall be granted for the term of one year, and if continued to the holders thereof, shall be formally renewed from year to year. Duration and renewal of license.

But every person holding a license, who may intend not to renew it, shall give notice of his intention to the Collector at least fifteen days before the year expires.

If such notice be not given, and the license be not recalled by the Collector, the license held, and engagement entered into, by every such person, shall remain in force as if the said license and engagement had been formally renewed.

33. The Chief Revenue Authority may regulate the form and conditions of all licenses granted under this Act. Regulation of form of license.

34. The Collector may recall or cancel any license granted under this Act, if the tax or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a breach of the peace or any other criminal offence. Power to recall license.

If the Collector desire to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice and remit a sum equal to the tax for fifteen days, or, if notice be not given, shall make such further compensation for default of notice as the Commissioner or Chief Revenue Authority directs.

35. Any licensed retail-vendor may surrender his license on giving one month's previous notice to the Collector, and paying such fine not exceeding the amount of the license-fees for six months as the Collector may adjudge. Surrender of license.

If the Collector is satisfied that there is a sufficient reason for resigning a license, he may remit the fine so prescribed.

VII.—Powers of Officers.

36. The collection of the revenue arising from the manufacture of spirits, and the sale of spirits and spirituous and fermented liquors and intoxicating drugs, shall be ordinarily under the charge of the Collectors of land-revenue, who shall perform the duties connected therewith under the control and direction of the Commissioners of Revenue, and of the Chief Revenue Authority. Collectors of land-revenue to have charge of excise.

But the Local Government may appoint any other person to be superintendent of excise-revenue in any district or place, and any person so appointed

shall exercise, in such district or place, all the powers and authority conferred by this Act on the Collector of land-revenue; and the Collector of land-revenue shall cease to exercise such powers and authority in such district or place during the continuance of such appointment.

Power to appoint Commissioners of Excise.

37. The Local Government may also appoint a Commissioner or Commissioners for the control and direction of the officers having charge of the excise-revenue in any district or districts; and when such appointment is made, the Commissioner of Excise shall exercise within such district or districts the powers and authority conferred by this Act on Commissioners of Revenue, and the Commissioners of Revenue shall cease to exercise such powers and authority in the said district or districts during the continuance of such appointment.

Collectors may appoint excise-officers.

38. Collectors may appoint dároghas, jamadárs, peons, surveyors, gaugers and other officers, for the collection of the excise-revenue and for the prevention of smuggling, and the officers so appointed shall, in addition to their ordinary designations, be styled excise-officers.

Tahsíldárs may be excise-dároghas.

39. In districts where there are tahsíldárs and other local officers for the collection of the land-revenue, the office of excise-dárogha may be united with that of tahsíldár or any of such local officers, and the said officers, together with the officers subordinate to them, shall be deemed to be excise-officers within the meaning of this Act.

Power to regulate supply of tárí and intoxicating drugs to licensed vendors.

40. The Chief Revenue Authority may regulate the mode in which tárí shall be supplied to licensed vendors of the same; and may frame rules for the grant of licenses or passes to persons purchasing, transporting or storing gánja, bháng or charas for the supply of the licensed vendors of those drugs.

Such Authority may also place the cultivation, preparation and store of such drugs under such supervision as may be deemed necessary to secure the duty leviable thereon.

Recovery of arrears of tax or duty.

41. The Collector may recover any arrear of tax or duty due on account of any license granted under this Act,

or any arrear due from any farmer of excise-revenue,

by distress and sale of the moveable property of the person from whom the arrear is due or of his surety, or by any other process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties.

Power of excise-officers to inspect shops.

42. Any excise-officer may enter and inspect at any time by day or by night the shop or premises in which any licensed manufacturer or retail-vendor carries on the manufacture of country-spirits, or the sale of spirituous or fermented liquors or intoxicating drugs.

And to arrest persons carry-

43. Any excise-officer may stop and detain any person carrying any

spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act;

ing spirits, &c., liable to confiscation.

and may seize the liquors or drugs, with the vessels, packages or coverings in which they are contained, and the animals and conveyances used in carrying them;

and may also arrest the person in whose possession such liquors or drugs are found.

44. Any excise-officer above the rank of a jamadár of peons may arrest any person having in his possession an unlicensed still, or any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Act, or engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs,

And to arrest unlicensed distillers, &c.

and may seize such still with the materials for working it, and all such liquors and drugs.

And to seize stills.

45. Whenever any excise-officer above the rank of a jamadár of peons, has reason to believe, from information given by any person (which information shall be taken down in writing)

And to search on information of illicit manufacture or possession.

that spirits are unlawfully manufactured,

or that any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Act, are kept or concealed in any house, boat or other place,

such officer may, between sunrise and sunset (but always in the presence of an officer of Police not being under the grade of a jamadár), enter into any such house, boat or place,

and in case of resistance may break open any door, and force and remove any other obstacle to such entry;

and may seize and carry away all stills and materials used in the manufacture of such spirits and all such liquors and drugs;

and may also arrest the occupier of the house, boat or place with all other persons concerned in the manufacture of such spirits, or in the keeping and concealing of such liquors or drugs.

46. The powers of seizure, search and arrest, given to excise-officers by the three last preceding sections, may, in regard to the seizure and search for contraband opium and the arrest of persons found in possession thereof, be exercised also by the officers of the Police, Customs and Revenue Departments, according to their respective grades.

Police, customs and revenue-officers may exercise powers of excise-officers.

And the Local Government may confer on the officers of those departments, or of any of them, like powers with respect to the seizure of, and search for, spirituous and fermented liquors and intoxicating drugs of every description, and the arrest of persons found in possession thereof.

All such officers when so empowered, as well as all Police, Customs and Revenue-officers when acting under the authority conferred by this section for the suppression of illicit dealings in opium, shall be deemed to be excise-officers within the meaning of this Act.

Excise-officer to report arrests, &c.,

47. Whenever an excise-officer arrests any person,

or seizes any still, or any liquors or drugs liable to confiscation under this Act,

or enters any house, boat or place for the purpose of searching for any such illicit articles,

and to take person arrested to Magistrate.

he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest or seizure, or search, to his official superior, and, unless acting under the warrant of the Collector, shall carry the person arrested, or the illicit article seized, with all convenient despatch to the Magistrate for trial or adjudication.

Collector may issue warrant of arrest in certain cases.

48. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing, or from the proceedings in any other case, to be engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, or to have in his possession any such liquors or drugs liable to confiscation under this Act.

Collector may issue search-warrant.

49. The Collector may issue his warrant for the search of any house, boat or place, in which, upon any of the grounds mentioned in the last preceding section, he has reason to believe that spirits are unlawfully manufactured, or that spirituous or fermented liquors or intoxicating drugs, liable to confiscation under this Act, are kept or concealed.

Such warrant may be executed by any officer above the rank of a jamadár of peons, at the time and in the manner prescribed in section forty-five.

Special warrant authorizing search between sunset and sunrise.

Whenever the Collector thinks that the search should be made between sunset and sunrise on any particular day, he shall issue a warrant specially authorising the search to be so made. Such warrant may be executed by any officer above the rank of a jamadár of peons, in the manner prescribed in section forty-five, and shall cease to be in force at sunrise on the day next following.

Procedure after arrest or seizure.

50. Whenever any person is arrested, or any articles are seized under the warrant of a Collector, the Collector, after such inquiry as he thinks necessary, shall send the person arrested or the articles seized to the Magistrate, or shall order the immediate discharge of such person or the release of such articles.

Police to assist excise-officers.

51. All Police-officers are required to aid the excise-officers in the due execution of this Act, upon notice given or request made by such officers.

VIII.—Penalties.

For constructing or working distillery without license.

52. Whoever constructs or works a distillery after the English method without a license from the Collector, shall for every such offence be punished with fine not exceeding one thousand rupees;

and all spirits manufactured at any such distillery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

For non-observance of rules prescribed by Chief Revenue Authority.

53. Every proprietor or manager of a licensed distillery constructed and worked after the English method, who omits to furnish any notice or any statement or list required by the rules prescribed by the Chief Revenue Authority under section six, or wilfully does anything in contravention of the said rules, shall for every such offence be punished with fine not exceeding two hundred rupees;

and if any such offence be committed a second time with respect to the same distillery, the Collector may withdraw the license granted for the working of such distillery.

For removing spirituous liquors without payment of duty.

54. Whoever removes or attempts to remove, from any licensed distillery constructed and worked after the English method, any spirituous liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any spirituous liquors for which the Collector has not issued a pass, shall for every such offence be punished with fine not exceeding one thousand rupees;

and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

If it appear to the Collector that the offence was committed with the consent or knowledge of the proprietor or manager, the Collector may withdraw the license granted for the construction and working of the distillery from which such liquors have been removed or attempted to be removed.

For irregular re-land of spirituous liquors.

55. Whoever re-lands, or attempts to re-land, any spirituous liquors shipped for exportation, without a special pass from the Collector of revenue at the place of exportation, shall for every such offence be punished with fine not exceeding five hundred rupees;

and the liquors, together with the casks and vessels containing the same, and the carts, boats and animals employed in carrying them, shall be liable to confiscation.

For working brewery without license.

56. Whoever constructs or works a brewery, or manufactures malt liquor, without a license, shall for every such offence be punished with fine not exceeding five hundred rupees.

For refusing to produce license.

For breach of license.

57. Every person licensed to manufacture country-spirits or to sell spirituous or fermented liquors or intoxicating drugs, who fails to produce his license on the demand of any excise-officer, or who commits any act in breach of any of the conditions of his license not otherwise provided for in this Act, shall for every such offence be punished with fine not exceeding fifty rupees.

For sale in contravention of license.

58. Every licensed retail-vendor, who sells any larger quantity of spirituous or fermented liquors, or intoxicating drugs, than is allowed to be sold by retail by this Act, and every licensed wholesale vendor who makes a retail-sale, shall for every such offence be punished with fine not exceeding two hundred rupees:

Proviso.

Provided that nothing in this section shall be held to prohibit the grant to the same person of both wholesale and retail-licenses, subject to the provisions of this Act.

For permitting drunkenness, &c., in shop.

59. Every person licensed to sell spirituous or fermented liquors or intoxicating drugs, who permits drunkenness, riot or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing apparel or other effects in barter for liquors or drugs, shall for every such offence be punished with fine not exceeding two hundred rupees.

For conveying country-spirits from distillery without pass, &c.

60. Whoever conveys or attempts to convey any country-spirits from a distillery established under section seven without a pass, or exceeding the quantity for which a pass has been granted,

or introduces or attempts to introduce any country-spirits manufactured at another place into the limits fixed for the consumption of spirits manufactured at such distillery, without a special pass from the Collector,

shall for every such offence be punished with fine not exceeding five hundred rupees.

For contravening rules prescribed by Chief Revenue Authority.

61. Whoever wilfully contravenes any rule prescribed by the Chief Revenue Authority for the management of a distillery established as aforesaid, otherwise than as provided for in the last preceding section, shall for every such offence be punished with fine not exceeding fifty rupees.

For illicit manufacture or sale of country-spirits, &c.

62. Every person other than a licensed manufacturer who manufactures any country-spirits,

and every person other than a licensed vendor, or a person duly authorized to supply licensed vendors, who sells any spirituous or fermented liquors, or intoxicating drugs,

and every person authorized to supply licensed vendors, who sells any such liquors or drugs to any person other than a licensed vendor,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Proviso.

Nothing in this section or in section twelve applies to the sale by auction of any spirituous liquors, wines or beer purchased by any person for his private use and so disposed of upon his quitting a station or after his decease.[a]

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[a] See Act No. XXVI of 1872 (*infra*, p. 139), section 3.

63. Every person, other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendors, who has in his possession any larger quantity of country-spirits, or tárí or pachwái, or intoxicating drugs, except opium, than may legally be sold by retail under the provisions of section nineteen, For illegal possession of country-spirits, &c.

or transports by land or by water, or has in his possession, any spirituous liquors made at a distillery worked according to the English method, or any imported spirituous or fermented liquors, in larger quantity than two gallons, without a pass from the Collector or other officer duly empowered in that behalf,

shall for every such offence be punished with fine not exceeding two hundred rupees;

and the liquors and drugs, together with the vessels, packages and coverings in which they are found, and the animals and conveyances used in carrying them, shall be liable to confiscation:

Provided, that nothing in this section extends to any spirituous liquors, wines or beer purchased by any person for his private use and not for sale. Proviso.

64. The provisions of the two last preceding sections, so far as they relate to the sale and possession of fermented liquors, do not apply to the sale and possession of tárí the produce of the date-tree, when supplied or used for the manufacture of gúr or molasses; and the provisions of the said sections relating to the sale and possession of intoxicating drugs do not apply to the sale and possession of gánja or bháng by the cultivators of the plants which produce those drugs respectively. Exceptions as to tárí, gánja and bháng.

Every such cultivator selling gánja or bháng in breach of the prohibition contained in section twenty, shall for every such offence be punished with fine not exceeding five hundred rupees.

65. Every person, other than a licensed vendor, who has in his possession a greater quantity of opium than five tolas weight, shall for every such offence be punished with fine not exceeding five hundred rupees, unless the opium found in his possession exceeds the weight of thirty-one sers and a quarter, in which case the penalty may be increased at a rate not exceeding sixteen rupees the ser of all the opium so found in excess of that weight; and the opium, together with the vessels, packages and coverings in which it is found, and the animals and conveyances used in carrying it, shall be liable to confiscation.[a] For possessing more opium than five tolas weight.

66. Nothing in section sixty-five applies to the persons and circumstances hereinafter specified, namely:— Exception in favour of—

(*a*) authorized opium-cultivators having newly extracted opium in their opium-cultivators,

[a] See Act No. XXVI of 1872 (*infra*, p. 139), section 3.

possession during the usual period between the full growth of the poppy and the delivery of the produce to the Opium Agent:

travellers,

(*b*) travellers and visitants from foreign States or countries having in their possession any quantity of foreign opium not exceeding two sers, or, in British Burma, five tolas, the produce of such foreign States and countries, and intended for the private use of such travellers and visitants, or their attendants, and not for sale or barter:

and horse-dealers.

(*c*) dealers in horses travelling with strings of horses from beyond the limits of British India, and having in their possession opium, the produce of foreign States or countries, not exceeding in quantity the proportion of ten tolas weight for each horse.

For possession of excessive quantity of opium by travellers, &c.

If opium be found in the possession of any such traveller, visitant or dealer in horses in excess of the quantities above specified, such excess shall be liable to confiscation; but the person in whose possession it may be found shall not be subject to any further penalty.[a]

For sale of adulterated opium, &c., by licensed vendors.

67. Every licensed vendor, who sells or offers for sale opium adulterated with any foreign substance, not being a preparation or admixture of opium for the sale of which he has taken out a license,

or who, except in districts exempted from the operation of section eighteen, sells or has in his possession any opium other than the opium supplied to him from the Government stores,

shall for every such offence be punished with fine not exceeding five hundred rupees, and the license held by him shall be withdrawn, and the opium, together with the vessels or packages in which it is found, shall be seized and confiscated.

For conniving at illicit manufacture or sale of spirits, &c.

68. Every proprietor, farmer, tahsíldár, gumástha or other manager of land, who authorizes or connives at the manufacture of country-spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, shall for every such offence be punished with fine not exceeding five hundred rupees.

On police neglecting to assist.

69. Any Police-officer who, without lawful excuse, neglects or refuses to assist as aforesaid, and any dárogha or other officer in charge of a Police-station, who, on application made by an excise-officer under section forty-five, fails to attend a search himself, or to depute a subordinate officer not being below the grade of a jamadár, shall for every such offence be punished with fine not exceeding five hundred rupees.

For maliciously giving

70. Whoever maliciously gives false information against any person as being engaged in the unlawful manufacture of spirits, or as selling or having

[a] See Act No. XXVI of 1872 (*infra*, p. 133), section 3.

in his possession any spirituous or fermented liquors or intoxicating drugs in contravention of this Act, and so procures that such person be arrested or that any house, boat or other place be searched, to the injury or annoyance of such person, or any other person whatsoever, shall for every such offence be punished with fine not exceeding five hundred rupees, or with imprisonment for a term not exceeding six months, or with both. false information.

Such fine, or any part thereof, may be paid to the person aggrieved.

71. Any excise-officer who, without reasonable ground of suspicion, searches or causes to be searched any house, boat or other place, For vexatious search or seizure.

or vexatiously and unnecessarily seizes the moveable property of any person, on the pretence of seizing or searching for any spirituous liquors or intoxicating drugs liable to confiscation under this Act,

or vexatiously and unnecessarily arrests any person,

or commits any other excess not required for the execution of his duty,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Such fine, or any part thereof, may be paid to the person aggrieved.

72. Any excise-officer who neglects to report the particulars of an arrest, seizure or search within twenty-four hours thereafter, or delays carrying to the Magistrate or Collector, as the case may be, any person arrested, or any illicit articles seized under this Act, shall for every such offence be punished with fine not exceeding two hundred rupees. On excise-officers for delay in reporting arrest, &c., or in carrying person arrested to Magistrate.

73. Any excise-officer unlawfully releasing or conniving at the escape of any person arrested under this Act, or conniving at the manufacture of spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, or by any licensed person contrary to the terms of the license, or acting in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the excise-revenue defrauded; For conniving at escape of persons arrested, &c.

and any officer invested with local jurisdiction, authorizing or conniving at the establishment of any unlicensed shop for the sale of such liquors or drugs as aforesaid in any place subject to his control,

shall for every such offence be punished with fine not exceeding five hundred rupees.

74. All fines leviable for offences against this Act, and all seizures of goods liable to confiscation under this Act, shall be adjudged by the Magistrate on the information of the Collector or any excise-officer: Adjudication of penalties and seizures.

Provided that no such information shall be necessary in any case of complaint preferred to a Magistrate under section fifty-nine, sixty-nine, seventy, seventy-one, seventy-two or seventy-three.

Procedure in cases other than those of persons sent in custody by Collector or excise-officer.

75 In all cases in which complaint or information is preferred to a Magistrate of offences committed against this Act, not being cases in which persons are sent in custody by a Collector or excise-officer, the Magistrate shall issue a summons requiring the attendance of the person accused.

The rules contained in the Code of Criminal Procedure, for the trial of cases before a Magistrate and for appeal against orders passed by a Magistrate, shall apply to trials under this Act:

Provided that no complaint or information of an offence against this Act shall be admitted, unless it be preferred within six months after the commission of the offence to which the complaint or information refers.

Punishment on second or subsequent conviction.

76. Whenever any person is convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty provided for such offence, to imprisonment for a term not exceeding six months.

A like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Confinement in civil jail.

77. Every person imprisoned for an offence under section fifty-nine, sixty-nine, seventy, seventy one, seventy-two or seventy-three, shall be confined in the criminal jail, and every person imprisoned for an offence under any other section shall be confined in the civil jail.

Disposal of confiscated goods.

78. All things confiscated under this Act, except opium, shall be disposed of by the Collector by public sale.

Opium so confiscated shall be sent for examination to the Civil Surgeon of the station, and, if declared by him to be fit for use, shall be sent to the Government factories, or otherwise disposed of in such manner as the Chief Revenue Authority directs. If declared to be unfit for use, it shall be immediately destroyed.

Disposal of fines, &c., as rewards.

79. One-half of all fines levied from persons convicted of the unlawful manufacture of spirits, or of the unlawful sale or possession of spirituous or fermented liquors or intoxicating drugs, and one-half of the proceeds from sale of all confiscated articles, except opium, and in the case of opium confiscated and declared by the Civil Surgeon to be fit for use, a reward of one rupee eight annas for each ser, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender.

The other half of such fines and forfeitures, and the other half of the proceeds of sale, or in the case of opium as aforesaid, a reward of one rupee eight annas for each ser, shall be given to the informer.

Rewards where no fine is realized

If in any case the fine or forfeiture is not realized, the Chief Revenue Authority may grant such reasonable reward, not exceeding two hundred

rupees, as may seem fit; and such Authority may direct by general order what classes of excise-officers shall receive rewards, and what classes shall have no title to share therein.

Fines undisposed of to belong to Government. Special rewards to informers.

80. All fines levied under this Act, the disposal of which is not especially provided for, shall belong to Government.

But the Chief Revenue Authority may appropriate any portion thereof, not exceeding one-half, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act.

IX.—Military Cantonments.

Manufacture and sale of spirits, &c., in cantonments.

81. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirits, or for the sale of spirituous and fermented liquors, shall be granted, nor shall the duties leviable upon such spirits and liquors be let in farm, unless with the knowledge and consent of the commanding officer;

and upon his requisition any license which has been granted, either by the Collector or by a farmer, within such distance or limits, shall be immediately withdrawn.

Arrest or search within cantonments.

82. In all other respects, the foregoing provisions of this Act shall have effect within such limits or distance:

Provided that, when arrest or search is to be made within the limits of any cantonment, the Collector or other officer authorized under this Act to make arrest or search shall, whenever it may be practicable, give previous notice to the commanding officer, and in all other cases shall report the arrest or search to such commanding officer with as little delay as possible:

Provided also that nothing herein contained shall affect the provisions of Act No. XXII of 1864[a] (*to make provision for the Administration of Military Cantonments*).

X.—Miscellaneous.

Drawback on exportation.

83. A drawback of the duty levied under Part IV of this Act, on spirits manufactured after the English method, and exported by sea to Aden or any port not situate in British India, shall be allowed by the Collector of Customs at the port of exportation:

Provided that the exportation be made within one year from the date of the payment of duty under this Act, and that the spirits, when brought to the custom-house, be accompanied by the pass in which such payment is certified.

The amount of drawback to be allowed upon spirits for which duty has

[a] See General Acts, Vol. II, p 672.

been paid, shall be regulated according to the strength and quantity of the said spirits, as ascertained by such proof and gauge.

The quantity of spirits, for which credit is to be given in the settlement of any bond, shall be determined in the same manner.

Drawback when not allowed.

84. No drawback shall be allowed on spirits exported to any port in British India, except Aden, or on spirits shipped as stores.

Recovery of sums due under bond.

85. Any sum remaining due to Government upon the settlement of a bond executed according to the provisions of this Act, may be recovered by any process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties, or by suit on the bond in any Court of competent jurisdiction.

Appeals from orders and sentences under Act.

86. All orders passed by a Collector under this Act shall be appealable to the Commissioner in the usual manner under the rules in force relative to appeals from the orders of Collectors.

Powers vested in officers of Opium Department.

87. In the districts in which the poppy is cultivated on account of Government, the Deputy Opium Agents and Sub-Deputy Agents shall exercise the powers conferred by this Act on Collectors, so far as the same relate to the suppression of illegal dealings in opium;

and the officers of the Opium Department shall exercise the powers conferred by this Act on excise-officers for the seizure of illicit opium and the arrest of persons found in possession thereof; and in respect to such seizures and arrests, shall be deemed to be excise-officers within the meaning of this Act.

ACT No. XX of 1871.

Received the Governor General's assent on the 20th of June 1871.

An Act to provide for the levy of rates on land in the Panjáb.[a]

Preamble

WHEREAS it is expedient to provide for the levy of rates on land in the Panjáb to be applied to local purposes; It is hereby enacted as follows:—

Short title.

1. This Act may be called 'The Panjáb Local Rates Act, 1871':

Local extent.

It extends only to the territories for the time being under the government of the Lieutenant-Governor of the Panjáb.

Interpretation-clause. 'Land.'

2. In this Act—

'Land' means land assessed to the land-revenue, and includes land whereof the land-revenue has been, wholly or in part, released, compounded for, redeemed or assigned;

Landholder.

'Landholder' means any person responsible for the payment of the land-revenue, if any, assessed on land. It also includes a person holding land, the land-revenue of which has been, wholly or in part, released, compounded for, redeemed or assigned;

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[a] This Act will be repealed by Act No. V of 1878 when the latter Act is brought into force.

'Annual value' means— 'Annual value.'

(1) double the land-revenue for the time being assessed on any land, whether such assessment be leviable or not;

(2) and, where the land-revenue has been permanently assessed, or has been wholly or in part compounded for or redeemed—

double the amount which, but for such permanent assessment, composition or redemption, would have been leviable.

3. All land shall be liable to the payment of such rate as the Lieutenant-Governor from time to time directs, not exceeding six pies for every rupee of its annual value. Rate assessable.

Such rate shall be computed as from the first day of April 1871, and shall be paid by the landholder independently of, and in addition to, any land-revenue assessed on land for the land-revenue of which he is responsible, and any local cesses now leviable therefrom:

Provided that, wherever the proprietors of any land pay the land-revenue in kind to any assignee of revenue or any village-headman, such assignee of revenue or village-headman shall be responsible for the payment of the said rate, instead of the proprietors, and no demand shall be made by any such assignee or village-headman on any such proprietor in respect of the payment of any such rate.

4. Whenever a rate is charged on a landholder in respect of lands held by a tenant with a right of occupancy holding at a favourable rent, such landholder may realize from such tenant a share of the said rate, bearing the same proportion to the whole rate as the excess of the annual value over the rent paid by such tenant bears to half the annual value. Power to recover a share of rate from tenant.

Illustration.—A is a landholder of an estate of which the land-revenue is rupees fifty. The annual value therefore is rupees one hundred, and the maximum rate would be rupees three, annas two. The estate is held by a tenant with right of occupancy at rupees seventy-five rental.

Supposing the maximum rate to be levied, A will be entitled to recover from the tenant rupees one, annas nine, or half the rate, thus—

As half the annual value	is to	Excess of the annual value over the tenant's rent	so is	The whole rate	to	The portion which the landlord can recover from tenant.
i. e.		*i. e.*		*viz.* Rs. As.		*i. e.* Rs. As.
50	:	25	::	3 2	:	1 9

Rates to be carried to general fund.

5. The proceeds of all rates levied under this Act shall be carried to the credit of the Local Government.

Assignments for local purposes.

6. The Lieutenant-Governor shall from time to time assign from the funds at his disposal an amount to be applied in each district for expenditure on all or any of the following purposes:

(1) the construction, repair and maintenance of roads and communications;

(2) the construction and repair of school-houses, the maintenance and inspection of schools, the training of teachers, and the establishment of scholarships;

(3) the construction and repair of hospitals, dispensaries, lunatic asylums, wells and tanks, the planting and preservation of trees, the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works likely to promote the public health, comfort or convenience.

The aggregate of such assignments in any one year shall not be less than the total sum levied under this Act in such district in the year in which the assignment is made.

Works benefiting several districts.

7. In the case of works which benefit more districts than one, the Lieutenant-Governor may determine what proportion of the expenses of the work shall be borne by each of the districts benefited thereby, and such proportion shall be payable out of the assignments made as aforesaid to such districts respectively.

Unexpended portion of assignment.

8. Any portion of such assignment remaining unexpended at the end of the financial year in which the assignment was made may, at the discretion of the Lieutenant-Governor, be re-assigned for expenditure in the same district, or may be applied for the benefit of the Panjáb, on such one or more of the purposes mentioned in section six as the Lieutenant-Governor from time to time directs.

Accounts to be kept.

9. Accounts of the receipts in respect of all rates levied under this Act and of the assignments made under section six, shall be kept in each district.

Such accounts shall, at all reasonable times, be open to the inspection of the local committee hereinafter mentioned.

An abstract of such accounts shall be prepared annually in English and in the vernacular language of the district, and shall be open, at all reasonable times, to public inspection at suitable places within the district without the payment of any fee.

An abstract of such accounts shall also be published annually in the local official Gazette.

Local Committees

10. The Lieutenant-Governor shall appoint, in each district, a committee, consisting of not less than six persons, for the purpose of determining how the

amount mentioned in section six shall be applied, and of supervising and controlling such amount:

Provided that not less than one-third of the members of such committee shall be persons not in the service of Government, and owning or occupying land in the district, or residing therein:

The Lieutenant-Governor shall from time to time prescribe the manner in which the members of such committee shall be appointed or removed, and shall define the functions and authority of such committee.[a]

Suits under Act cognizable by Courts having cognizance of suits for rent.

11. Suits for the recovery from co-sharers, tenants or others of any sum on account of any rate imposed under this Act, and all suits on account of illegal exaction of such rate, or for the settlement of accounts, shall be cognizable by the Courts which, for the time being, have cognizance of suits for rent due on land.

Limitation of appeals.

12. In matters connected with the assessment and collection of any sum leviable under this Act, an appeal shall lie from the order of any person authorized under this Act to make assessments, to such person as the Lieutenant-Governor appoints:

Provided that such appeal shall be presented within thirty days from the date of such order.

The order of such person on such appeal shall be final.

Recovery rates.

13. All sums due on account of any rate imposed under this Act shall be recoverable as if they were arrears of land-revenue due on the land on account of which the rate is payable.

Supplementary powers of Local Government.

14. The Lieutenant-Governor may, by notification from time to time,

(*a*) prescribe by what instalments and at what times such rate shall be payable, and by whom it shall be assessed, collected and paid;

(*b*) appoint the person or class of persons to whom the appeals referred to in section twelve shall lie;

(*c*) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement;

(*d*) exempt wholly or in part any portion of the territories under his government from the operation of this Act, or exempt any land from liability to pay the whole or any part of any rate under this Act;

(*e*) direct fresh measurements and vary the assessment accordingly.

Every notification under this section shall be published in the *Government Gazette, Panjáb*

[a] See the Resolution, No. 477, dated 25th February 1876, published in the *Panjáb Government Gazette*, 2nd March 1876, Part I, p 89.

ACT No. XXII of 1871.

Received the Governor General's assent on the 1st of August 1871.

An Act to authorize the extension of the Chaukídárí Act to places where there is no Jamadár of Police.

Preamble. WHEREAS by Act No. XX of 1856 [a] *(to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal)*, section two, the Local Government is restrained from extending that Act to any city, town, suburb or bázár, unless there be therein (or in some other city, town, suburb or bázár with which the same may be united as thereinafter provided) a Police-station under an officer of a grade not below that of a Jamadár; and whereas it is expedient to remove such restriction and in other respects to amend the said Act; It is hereby enacted as follows:—

Amendment of section two, Act No. XX of 1856. 1. Instead of the second section of the said Act, the following shall be read:—

[*Vide supra, p. 21.*]

Amendment of section eleven. 2. Instead of section eleven of the said Act, the following shall be read:—

[*Vide supra, p. 23.*]

Amendment of section thirty-eight. 3. Instead of section thirty-eight of the said Act, the following shall be read:—

[*Vide supra, p. 27.*]

Amendment of section forty-one. 4. In the forty-first section of the said Act, instead of the words "on the 20th of each calendar month," there shall be read the words "on the 10th day after the date fixed for the payment of instalments of the tax."

Amendment of appendices A and C. 5. In appendix A, at the end of the first paragraph, the words "and the aggregate amount assessed shall not exceed the average rate of two annas per mensem for each house, shop or building in the district," shall be omitted.

In appendix C, the words "the first payment on the 10th day of the month next succeeding the date of this notification, and every subsequent payment on or before the 10th day of each succeeding month," shall be omitted.

Construction. Exemption of Bengal. 6. This Act shall be read with, and taken as part of, the said Act XX of 1856, but shall not take effect within the territories subject to the Lieutenant-Governor of Bengal.

[a] See *supra*, p. 21.

THE PANJÁB LAND-REVENUE ACT, 1871.

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ACT No. XXXIII OF 1871.

Received the Governor General's assent on the 18th of November 1871.

An Act to consolidate and define the law relating to the settlement and collection of land-revenue in the Panjáb, and for other purposes.

WHEREAS the Government of India is by law entitled to a proportion of the produce of the land of the Panjáb to be from time to time fixed by itself; Preamble.

and whereas it is expedient to consolidate and define the law relating to the settlement and collection thereof, and to the duties of revenue-officers in the Panjáb; It is enacted as follows:—

PRELIMINARY.

Short title. Local extent.

1. This Act may be called "The Panjáb Land-Revenue Act, 1871:"

It extends to the territories subject to the Lieutenant-Governor of the Panjáb, but not so as to affect the validity of any Regulation made by the Governor General under the provisions of 33 Vic., cap. 3, for any portion of the territories to which this Act extends;

Commencement.

And it shall come into force on the first day of January 1872.

'Estate' defined.

For the purposes of this Act, "Estate" means a village or other local area with which a separate settlement is made.

CHAPTER I.—REVENUE-OFFICERS.

Grades of revenue-officers.

2. There shall be in the Panjáb the following grades of revenue-officers:—

(1) the Financial Commissioner, who shall, subject to the Lieutenant-Governor, be the chief controlling revenue authority in the Panjáb;

(2) Commissioners, each of whom shall, subject to the control of the Financial Commissioner, be the chief controlling revenue authority within a division;

(3) Deputy Commissioners, each of whom shall, subject to the control of the Commissioner, be the chief executive revenue authority in a district;

(4) Tahsíldárs, each of whom shall, subject to the control of the Deputy Commissioner, be the chief executive revenue authority in a tahsíl or sub-district.

Appointment and removal of Financial Commissioner;

3. The Financial Commissioner shall be appointed and may be removed by the Local Government with the previous sanction of the Governor General in Council.

of Commissioners, Deputy Commissioners, and Tahsíldárs.

4. Commissioners and Deputy Commissioners shall be appointed and may be removed by the Local Government.

Tahsíldárs shall be appointed and may be removed by the Deputy Commissioner with the previous sanction of the Financial Commissioner.

Assistant Commissioners, &c., may be invested with powers of Deputy Commissioner.

5. The Local Government may invest any Assistant Commissioner or Extra Assistant Commissioner with all or any of the powers hereinafter conferred upon Deputy Commissioners.

The Deputy Commissioner may distribute amongst the Assistant Commissioners, Extra Assistant Commissioners and other subordinate officers of his district, as he thinks proper, such revenue duties as, under this or any other Act in force for the time being, they are authorized to perform.

Rules as to village-officers.

6. The Local Government shall make rules as to the appointment, duties, payment and removal of lambardárs or village-headmen, patwáris or village-accountants, kánungos or superintendents of village-accountants, such regard as the Local Government thinks fit being had to custom or descent.[a]

Where by any such rule the appointment of patwáris is directed to be made by the landowners of a village, the neglect or refusal of such landowners to make any such appointment within a prescribed time shall be punishable with such fine as the Local Government directs: and such fine shall be recoverable as an arrear of land-revenue.

CHAPTER II.—Of Settlements.

Settlement in progress.

7. Whenever the amount of revenue to be paid in a district or other local area is being assessed or re-assessed, or whenever the record-of-rights hereinafter described is being either made or revised under the provisions hereinafter contained, a settlement is said to be in progress; a district or other local area in which a settlement is in progress is said to be under settlement.

District under settlement.

Person settled with.

8. Whenever any person or persons are permitted to engage with the Government for the payment of revenue due in respect of any land, they are said to be settled with, or a settlement is said to be made with them in respect of that land.

Instructions for settlement to state principle of assessment.

9. The Local Government shall, with the previous sanction of the Governor General in Council, give written instructions to the officer in charge of a settlement, stating the principle on which the revenue in such settlement is to be assessed.

No Court of justice shall be entitled, under any circumstances, to require the production, or shall permit evidence to be given of the contents, of such instructions.

Kinds of settlements.

10. Settlements may be of the following kinds:—

(1) a summary settlement is a provisional settlement, made pending a first regular settlement: the declaration of the Local Government that a settlement was summary shall be conclusive proof that it was so;

(2) a first regular settlement is a settlement in which the revenue is assessed, and a record-of-rights is, for the first time, formed;

(3) a re-settlement is a settlement, subsequent to a first regular settlement, in which either the revenue is re-assessed, or the record-of-rights is revised, or in which both these processes are conducted.

Notification of settlement.

11. Whenever a district or other local area is to be put under settlement,

[a] For rules under this section, see *Panjáb Government Gazette*, 11th December, 1873, p. 732.

the Local Government shall, with the previous sanction of the Governor General in Council, issue a notification of settlement.

Such notification shall—

(1) define the local area which is to be put under settlement;

(2) mention such of the officers by whom it is to be made as to the Local Government seems fit; and, in every case in which judicial powers are conferred, shall specify the powers so conferred: the officers so mentioned shall be called Settlement-officers, and the principal officer so mentioned shall be the officer in charge of the settlement;

(3) declare whether the settlement is a summary settlement, a first regular settlement, or a re-settlement; and, in the case of a re-settlement, whether there is to be a re-assessment of revenue, or revision of the record-of-rights, or both;

(4) declare whether surveys and plans are to be made, and, in the case of a first regular settlement, whether the boundaries of villages and estates are to be adjusted.

Power to amend notification.

12. The Local Government may, with the previous sanction of the Governor General in Council, from time to time amend the settlement-notification, and may prescribe the order in which the Settlement-officers shall discharge their duties, or alter the duties to be discharged by them.

Power to remove and appoint Settlement-officers.

13. The Local Government may remove any of the Settlement-officers mentioned in the notification, and appoint others to succeed them, or to act for them during their temporary absence.

Of what documents records-of-rights are to consist. Maps and measurements.

14. Records-of-rights hereafter to be made shall consist of the following documents:—

(1) maps and measurement-papers, showing the boundaries of the village or place in respect of which the settlement is to be made, and the fields into which it is divided:

Statement of occupants and owners.

(2) a statement of the occupiers and owners of the fields specified in the said maps, and of the lands occupied or owned by them, and of the terms on which they are so owned or occupied:

Tender of engagement

(3) a tender on behalf of the person or persons settled with to engage for the payment of the revenue during the term for which the settlement is made:

Statement of holdings, amount of revenue payable, &c.

(4) a statement of the shares or holdings of the different persons settled with, and of the amount of revenue for which, as between each other, they are to be responsible; and a statement of persons holding lands free of revenue and of the lands so held:

Terms of payment and

(5) a statement of the terms on which the persons settled with agree to pay the revenue assessed, and of the customs of the village or place in respect

of which the settlement is made; such statement shall be so arranged as to distinguish such customs as regulate— village-customs.

(*a*) the relations of the persons settled with to the Government:

(*b*) the relations of the persons settled with towards one another:

(*c*) the relations of the persons settled with to other persons:

(6) an abstract of the proceedings at the settlement, which shall contain a statement of all judicial decisions passed by the Settlement-officers in the course of the settlement. Abstract of proceedings at settlement.

15. The Local Government shall from time to time prescribe the form, language and contents of each of the documents mentioned in the last preceding section, and the manner in which each shall be prepared, signed and attested; and may direct, either generally or in any particular case, other documents besides those specified to be contained in the record-of-rights. Form, language and contents of documents.

16. Judicial decisions passed by Settlement-officers shall be proved in the same manner, and shall have, when proved, the same effect, as judgments delivered by civil Courts. Proof and effect of decisions by Settlement-officers.

Entries in the record-of-rights made or authenticated at a regular settlement or re-settlement in the manner prescribed by the Local Government shall be presumed to be true. Authenticated entries in record-of-rights to be presumed true.

17. A settlement notified under section eleven shall be deemed to be in progress until sanctioned by the Local Government. Such sanction may be either Sanction of settlement.

(1) of the record-of-rights, or

(2) of the assessment, or

(3) of the record-of-rights and of the assessment.

The Local Government, on the report of the Financial Commissioner that the operations of the settlement are complete, may, previous to sanction, direct that the record-of-rights be handed over to the Deputy Commissioner of the district, and that the special jurisdiction conferred on any officer under section twenty-one or twenty-two of the Panjáb Courts Act, 1865, shall cease, and that the suits pending in the Courts of any such officers, or appeals from, or applications for the review of, the judgments of such officers, be transferred to the ordinary civil Courts, or to the Court of any officer appointed by the Local Government for the purpose of disposing of such suits, appeals or applications.

18. The assessment or record-of-rights may be revised, if the Local Government so directs, at any time before they are sanctioned respectively. Revision of record-of-rights.

19. When a record-of-rights made in any district or other local area at a regular settlement has been sanctioned, it shall not be revised until such dis- Time and manner of revision.

trict or local area is again put under settlement, nor shall it at such subsequent settlement be revised otherwise than by

(*a*) making entries in accordance with facts which have occurred since the date of the abstract specified in clause six of section fourteen;

(*b*) making such alterations of the record as are agreed to by all the parties interested therein, or are supported by a judicial decision;

(*c*) making new maps, surveys or measurement, when the Local Government so directs, and amending such of the documents of the record-of-rights as depend thereon, so as to accord with such new maps, surveys or measurement; but not so as to alter any statement as to the share or holding or status of any person, except in the cases mentioned in clauses (*a*) and (*b*) of this section.

Suit for declaration that in entry is incorrect.

20. Any person who considers that he is aggrieved as to any right of which he is in possession, by any entry made in a record-of-rights, may, after such record-of-rights has been sanctioned, bring a suit in a civil Court for a declaration that such entry is incorrect, and that a different entry ought to have been made. The Government and every person interested in such entry shall be made defendants in every such suit.

Effect of decree.

A decree obtained in such suit shall be of the same effect as if the entry which it declares to be correct had been made originally in the record-of-rights.

The provisions of this section shall not apply to any entry having the force of an agreement under section two of the Panjáb Tenancy Act, 1868, as amended by this Act.

Amendment of section 2, Act XXVIII of 1868.

21. Instead of the last clause of section two of the Panjáb Tenancy Act, 1868,[a] the following shall be read: "All entries in such record, made previously to the passing of the Panjáb Land-Revenue Act, 1871, in respect of matters comprised in chapters III, IV, V and VI of this Act, shall, when attested by the proper officer, be deemed to be agreements within the meaning of this section."

Erection and repair of boundary-marks.

22. Any Revenue-officer, and, in a district under settlement, any Settlement-officer, may, by a notice in writing, require the persons liable for the revenue of any village, estate or field to erect or repair boundary-marks sufficient for defining the limits of such village, estate or field; and if such boundary-marks are not so constructed or repaired within a period to be specified in the notice, such Revenue or Settlement-officer may cause boundary-marks to be so erected or repaired; and the cost of such erection or repair shall be recoverable from the persons liable for the revenue of such village, estate or field, as if it were an arrear of land-revenue due in respect of such village, estate or field.

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[a] See *supra*, p. 55.

Power to issue commissions to take evidence, or for local investigations, and to refer to arbitration.

23. Settlement-officers may issue commissions to take evidence, or for local investigations, according to the provisions of the Code of Civil Procedure, and may, if empowered by the Local Government, refer any matter in dispute to arbitrators, whether with or without the consent of parties.

The arbitrators to be appointed under this section shall exercise such powers, proceed in such manner, and their finding shall be liable to such appeal, as the Local Government directs.

Power to compel attendance of witnesses.

24. Settlement-officers shall have the same power to compel the attendance of all persons whom they believe to be able to give them information as to the matters into which they are empowered to inquire under the notification mentioned in section eleven, as the Judges of civil Courts have to procure the attendance of witnesses under the Code of Civil Procedure[a]; and all persons who appear before such officers are bound to state the truth upon all such matters, and to produce such documents and other things as may be required of them.

Power to enter lands to make surveys, &c.

25 Settlement-officers and the servants and workmen employed by them, shall have the powers specified in the Land Acquisition Act (X of 1870[a]), section four, for the purpose of making such plans and surveys as are directed by the said notification, and of collecting such information as to the quality and produce of the land as may be necessary to enable them to assess the revenue to be paid thereon.

What to be deemed to belong to owners of estates.

26. In regular settlements to be made hereafter, unless it is otherwise expressly provided in the records of the settlement, all forests, unclaimed, unoccupied, deserted or waste-lands, quarries, spontaneous produce and other accessory interests in land shall be deemed to belong to the owners of the estate within the boundaries of which they are at such settlement included.

Settlement of waste-lands in excess.

27. When the waste-land belonging to or adjoining an estate is so extensive as, in the opinion of the Deputy Commissioner or officer in charge of a settlement, to exceed the requirements of the owners of such estate with reference to pasturage or other useful purpose, such Deputy Commissioner or officer may at any time, with the sanction of the Financial Commissioner, make a separate settlement of the waste-land which he considers to be so in excess, and shall offer such waste-land, at such assessment, for such term, and on such conditions, as he thinks fit, to the owners of the estate to which it belongs, and if they refuse such offer, to the owners of any estate to which such waste-land adjoins; and if they refuse such offer, to any other person:

Allowance to owners refusing such settlement.

Provided that, where the owners of the estate to which such waste-land belongs refuse such offer, the Deputy Commissioner shall assign to them an

[a] See General Acts, Vol. II, p. 1226

annual allowance not less than five and not more than ten per cent. on the nett proceeds realized by Government from such waste-lands.

Presumption of ownership of forests, waste-lands, &c., in regular settlements made before passing of Act.

28. In regular settlements made before the passing of this Act, unless it is otherwise expressly provided in the records of such settlement, all forests, unclaimed, unoccupied, deserted or waste-lands, quarries, spontaneous produce and other accessory interests in land, whether included within the boundaries of an estate or not, shall be presumed to belong to the Government.

This presumption may be defeated by showing, from the assessment of the estate, that any such forest, unclaimed, unoccupied, deserted or waste-land, quarry, spontaneous produce or other accessory interest was taken into account in such assessment; in which case anything which was so taken into account shall be presumed to belong to the owners of the estate so assessed.

The question whether any such forests, unclaimed, unoccupied, deserted or waste-lands, quarries, spontaneous produce or other accessory interests were or were not taken into consideration in determining the amount of revenue to be assessed, shall be determined by a consideration of the reports made by the Settlement-officer to Government at the time of settlement, or, if the report is silent, by a comparison between the rates assessed in villages in which such forests, unclaimed, unoccupied, deserted or waste-lands, quarries, spontaneous produce or other accessory interests did, and villages of similar character in which they did not, exist.

Mines deemed to belong to Government.

29. Mines of metal or coal and gold-washings shall in every case be deemed to be the property of Government. But if Government works or causes to be worked any such mine, compensation for damage to the surface of the soil shall be made to the owner of such surface.

Such compensation may be claimed, and shall be ascertained and awarded, in accordance with the provisions of Act X of 1870.[a]

CHAPTER III.—Engagements for Payment of Land-revenue.

With whom settlement is to be made.

30. When the land in respect of which the settlement is to be made is owned by one person, the settlement shall be offered to that person.

When such land is owned by several persons, it shall be offered to such persons through their representatives.

When there are two classes of owners, superior and inferior, the settlement may be offered to either class, according as the Financial Commissioner directs.

If one of such classes refuses the offer of the settlement, it shall be offered to the other class.

[a] See General Acts, vol. II, p. 1226.

Settlement-officer to report amount of assessment and how computed.

31. When the officer in charge of the settlement has satisfied himself as to the amount at which an estate should be assessed, he shall submit a report of such amount and of the grounds on which it is computed to the Commissioner; and the Commissioner shall forward such report, together with his own opinion thereon, to the Financial Commissioner.

Financial Commissioner to give instructions as to terms.

32. The Financial Commissioner shall give such instructions as he thinks fit to the officer in charge of the settlement as to the terms on which the persons with whom the settlement is to be made shall be permitted to offer to engage for the revenue, and such officer shall inform such persons that they may make an offer on such terms, but that Government is not bound to accept such offer.

Effect of agreement to offer.

33. If the persons with whom the settlement is to be made agree to make such offer, they shall become liable, from the date of such agreement, to the payment of the amount of revenue mentioned in the said offer; but the Local Government may refuse to accept such offer, and may require any officer whom it may appoint for that purpose to offer the land to such persons at any other rate of revenue, or for any other term, or generally on any other conditions than those offered.

Offer may be refused.

Offer binding until refusal is notified.

34. Until such refusal and offer of new terms on the part of the Government are notified to the persons with whom the settlement is to be made, they shall be bound by, and shall continue to hold their lands on the terms of, the offer permitted by the Financial Commissioner to be made.

Liability of landowners in estate.

35. All the owners of land in an estate shall be jointly and severally liable for the payment of the whole amount of revenue assessed upon it, and to all the processes hereinafter prescribed for the collection of arrears of revenue.

If headmen agree, village-community is bound.

36. If all the village-headmen in a village-community agree to make such offer, such village-community shall be bound by such agreement.

Effect of refusal to offer.

37. If the persons with whom the settlement is to be made neglect or refuse to make such offer as is mentioned in section thirty-two, or to accept any offer made to them under section thirty-three, the officer in charge of the settlement may exclude such persons from their estate, and may make a settlement of such estate with any other persons, or may take the estate under direct management. The period of such exclusion shall in no case exceed the term of the settlement.

Allowance to persons excluded.

Any persons who are so excluded shall be entitled to an allowance from Government, the amount of which shall be fixed by the Financial Commissioner, but which shall not be less than five per cent., nor more than ten per

cent., on the nett amount realized by Government from the land from which such persons are excluded.

Land to be held on terms of expired settlement until new one is made.

38. If the term for which any settlement has been made expires before a new settlement is made, all persons who continue to occupy the land after the expiration of such term shall hold it upon the conditions of the expired settlement until a new one is made.

CHAPTER IV.—Maintenance of the Record-of-rights.

Recording of facts affecting record-of-rights.

39. When a record-of-rights has been handed to the Deputy Commissioner under the provisions of section seventeen, he shall from time to time record, or cause to be recorded, all facts affecting any matter stated in the record-of-rights which occur subsequent to the handing to him of the record-of-rights.

Rules for such recording.

40. The Local Government shall make rules as to the facts to be so recorded and the manner in which, the persons by whom, and the occasions on which, such facts are to be recorded, and as to the fees which are to be paid in respect of recording them.

Rules for settlement of lands of which revenue is resumed, &c.

41. The Local Government shall from time to time make rules as to the procedure to be followed in making or modifying settlements of lands of which the revenue has been assigned and is resumed by Government, lands affected by alluvion, diluvion or other river-action, waste-lands settled under the provisions of section twenty-seven, and other isolated portions of land.

Such rules may provide for any matters which may be provided for in a notification of settlement under section eleven, and the officers empowered by such rules to act as Settlement-officers shall have all the powers hereinbefore given to Settlement-officers.

CHAPTER V.—Collection of Land-revenue.

Local Government may make rules as to payment of revenue.

42. The Local Government may from time to time make rules as to the instalments by which, and the places and times at which, the revenue payable in respect of any land shall be paid, and for the mode in which notice as to such instalments, places and times shall be given to the persons concerned: and, until the Local Government shall otherwise direct, the practice as to these matters now observed shall continue to be observed.

Revenue to be paid at place and on day appointed.

It is the duty of every person who has engaged to pay any portion of land-revenue to pay the same at the place, and before sunset of the day, appointed by the Local Government in that behalf.

Effect of non-payment.

Any sum not so paid becomes thereupon an arrear of land-revenue, and the person who owes such arrear becomes a defaulter.

Procedure for recovery of arrears.

43. When an arrear of land-revenue has become due, the Deputy Commissioner may issue a warrant ordering the defaulter to pay the amount within a time therein stated, and empowering an officer to be named in the warrant, in default of the arrear being so paid, to bring the defaulter to the tahsíl at a date to be named in the warrant.

Warrant.

Detention at head-quarters of Deputy Commissioner.

If the arrear be not paid, and if, on the day named in the warrant, the defaulter does not show satisfactory cause for extending the time for payment of the arrear, the Deputy Commissioner may direct such person to be conveyed to his head-quarters and there kept under personal restraint for ten days.

The Deputy Commissioner may empower any tahsíldár of his district to exercise the powers conferred by the two preceding clauses of this section.

Imprisonment in civil jail;

If the arrear be not paid within ten days, and no good reason for the delay is shown, the Deputy Commissioner may issue an order to the jailor of the civil jail of the district, directing him to confine the defaulter therein as a civil prisoner until the arrear is paid, or until the expiration of such period, not exceeding one year from the date of the order, as the Deputy Commissioner thinks fit; and such person shall be confined according to the terms of such order;

Distraint and sale of moveables.

and he may order the distraint and sale of the moveable property of any such person, with the exception of instruments of husbandry, cattle actually employed in agriculture, and the tools of artisans;

or he may order either of the above processes to be enforced.

Conduct of sale.

Every sale ordered under this section shall be conducted according to the law in force for the time being for the sale of moveable property under the decree of a civil Court.

When defaulter may be discharged.

Wherever any of the processes provided in sections forty-six, forty-seven, forty-nine or fifty-two has been enforced in respect of an arrear, the defaulter on account of whose arrear such process has been enforced shall, if he has been imprisoned under this section, be forthwith discharged.

When civil Court may interfere.

44. No proceeding had, or process enforced, under section forty-three, shall be liable to be contested in any civil Court, unless the person aggrieved thereby denies that the amount of revenue claimed was due, and tenders security for any arrear in respect of which the process was issued, or which is due or is likely to become due before the termination of the suit, and for any costs arising out of the proceedings in the civil Court, in which case the Court shall issue a precept to the Deputy Commissioner to discharge the prisoner from custody; but the Court shall in no case interfere with any such distress and sale of moveable property as aforesaid.

Party proceeded against may pay

45. If any such process as is mentioned in section forty-three is taken against any person, such person may pay the amount claimed under protest,

under protest and sue for recovery.

and, upon such payment, such process shall be withdrawn, and the party against whom it was issued may sue the Government in any civil Court for the amount so paid.

Land may be attached and taken under direct management

46. When an arrear of land-revenue has become due, the Deputy Commissioner may, in addition to or instead of the processes hereinbefore specified, cause the land in respect of which the arrear has become due to be attached and taken under the direct management of any agent whom he appoints for that purpose.

Powers and obligations of agent

The agent so appointed shall stand for all purposes in the position of the person on account of whose default the land was attached, and shall be bound by all the engagements or other relations which existed between such person and any subordinate proprietors or tenants with rights of occupancy, and shall be entitled to manage the land attached, and to receive all rents and profits accruing on such land, to the exclusion of the person on account of whose default the land was attached, until the arrears of land-revenue due therefrom have been satisfied, or until the Deputy Commissioner directs him to restore the person whose interest has been attached to the management thereof.

Application of surplus-profits.

All surplus-profits of the land attached, beyond the cost of such attachment and direct management, shall go to defraying the arrear and any instalment of land-revenue that may become due during such management.

Termination of management.

And no such management shall continue after the arrear of revenue on account of which it was ordered, together with any such instalment, has been satisfied.

Transfer of share of defaulter to solvent co-sharers

47. If an arrear of land-revenue has accrued in respect of the share of any member of a village-community, such community or any member thereof may tender payment of such arrear, or may offer to pay such arrear by instalments;

and, if such tender be made, or if the Deputy Commissioner considers such offer satisfactory, the Deputy Commissioner may transfer the share of the defaulting member to such community or member, on such terms as he considers equitable, either permanently or until such arrear is paid.

If more such members than one make such tender or offer, the one who is most nearly related to the defaulter, or who, in case of sale, would have a right of pre-emption, shall be preferred.

When transfer of share is to become absolute.

48. If such share is so transferred until the arrear is repaid, and if the arrear is not repaid within twelve years, the community or member to whom the share has been so transferred may apply to the Deputy Commissioner to publish a notification that, if the arrear is not paid within one year from the date thereof, such transfer will become absolute; and the Deputy Commissioner may publish such notification accordingly, and if the arrear is not paid

before the expiration of one year from the date of the notification, the transfer to such community or member shall become absolute accordingly.

Sections 47 and 48 to apply to mortgagees and other incumbrancers.

49. The provisions contained in the two preceding sections in favour of members of a village-community shall extend to mortgagees and other persons having incumbrances on the land on which the arrear is due, in case neither the community nor any member thereof take action under the said provisions.

Processes not to affect joint and several liability of community.

50. The procedure prescribed in the three preceding sections shall not affect the joint and several liability of the members of the village-community in which it is enforced.

Notice to cancel settlement.

51. When any arrear of land-revenue remains unpaid for more than one month, the Deputy Commissioner, in addition to or instead of any of the processes hereinbefore provided, may, with the previous consent of the Financial Commissioner, cause to be published upon the land in respect of which such arrear is due a notification that, unless the arrear is paid within fifteen days from the date thereof, the settlement made in respect of the estate on which such arrear is due, or in respect of any portion of such estate, and all contracts made by the defaulter or any person through whom he claims, affecting such estate or portion of an estate, will be cancelled.

Service of notice.

A copy of such notification shall be stuck up at the tahsíl, and be served on each of the village-headmen of the village in which the arrear has accrued.

On cancelment of settlement land may be managed by agent or let in farm.

52. If such arrear of land-revenue is not paid within fifteen days from the date of the notification, the said settlement and all contracts made by the defaulter or any person through whom he claims, affecting the land in such estate or portion of an estate, shall be cancelled; and the Deputy Commissioner, with the previous consent of the Financial Commissioner, may either appoint an agent to manage the land, or may let the land in farm to any person who may be willing to accept the same, for such period and on such conditions as he thinks fit; and such farmer may, during such period, either occupy the land himself or sub-let the same to such persons on such terms as he may think proper:

Lease to be first offered to owners of land.

Provided that, in every case in which the provisions of this section are enforced, no lease of any of the lands mentioned in the notification shall be made to any other person till it has been first offered to the owners of such land: and such owners shall, if they accept the offer of the lease, be deemed, in the absence of express agreement to the contrary, to hold as tenants-at-will.

A cancelment under this section shall not affect any person, other than the

defaulter or his representatives, having an interest in such estate which existed at the date of the last previous settlement.

Allowance to persons dispossessed.

53. Whenever any person is dispossessed of any beneficial interest in land by any such attachment, direct management, transfer or cancelment as is provided in this chapter, he shall be entitled to an allowance in respect thereof such as is provided in section thirty-seven.

Farmer of share in village-community when not liable for revenue of other shares.

54. If the share of any member of a village-community is let to farm, under the provisions hereinbefore contained, to any person other than a member of the village-community, such person shall not, during the term of his farm, be liable for the land-revenue due in respect of the other shares in the village-community; and if such person is a member of the village-community, he may, if the Financial Commissioner so direct, be freed from joint and several liability in respect of such share.

Attachment of interest of defaulter in other land.

55. When an arrear of revenue cannot be recovered by any of the processes hereinbefore described, the Deputy Commissioner may, with the previous sanction of the Financial Commissioner, order the attachment, under section forty-six, of any beneficial interest to which the defaulter is entitled in any other land, and may apply the provisions of that section to such land until the arrear is satisfied.

What may be sold.

56. If the Deputy Commissioner is of opinion that an arrear of land-revenue cannot be recovered by any of the means hereinbefore mentioned, he may, with the previous sanction of the Financial Commissioner, sell by auction—

any land in respect of which such arrear has accrued, or any portion or share of such land; or

any land or houses, or interest in land or houses, other than that in respect of which such arrear has accrued, to which the defaulter is entitled:

When house or land may not be sold.

but no land or house shall be liable to be sold under this section,

if the land is subject to the Court of Wards, or is so circumstanced that the Court of Wards might exercise jurisdiction over it; or

if the land is under attachment under this Act, and the arrear has accrued during such attachment; or

if the land is held in farm under this Act by a person who is not a member of the village-community within whose estate such land is situated, and if the arrear has accrued during the term for which it is so held in farm.

Land to be sold free of incumbrances.

57. Land or other property sold under the last preceding section shall be sold free of all incumbrances, and all contracts made by any person in respect of such land or property shall become void as against the purchaser at the auction-sale.

Procedure to be followed in sales.

58. In all sales under section fifty-six, the procedure provided by sections 287, 293, 306 to 316, inclusive, of the Code of Civil Procedure, shall be followed, except in the following particulars:

(1) The defaulter may pay the arrear in respect of which the land is to be sold at any time before the day fixed for the sale, and upon such payment the sale shall be stayed:

(2) The proclamation of intended sale provided in the said section 287 shall declare that the land is to be sold free of every incumbrance, except the land-revenue and other legal charges to which it may be from time to time assessed:

(3) The appeal provided in section 588, clause (*m*), of the said Code shall lie to the Commissioner of the division, and an appeal from the Commissioner's order shall lie to the Financial Commissioner:

(4) The certificate provided in section 316 of the said Code shall state that the purchaser has purchased the land to which the certificate refers free of every incumbrance, except the land-revenue and other legal charges to which it may be from time to time assessed.

Suit to set aside sale.

59. A suit may be brought in a civil Court to set aside any such sale on any ground on which a sale under the Code of Civil Procedure might be set aside; but not on any of the following grounds:

(1) that a tender of the arrear of land-revenue on account of which such sale took place was made on or after the day named for the sale in the proclamation of intended sale;

(2) that the defaulter had any claim against the Government;

(3) that the revenue due from the defaulter had been remitted, unless the Local Government admits it;

(4) that money belonging to the defaulter, and sufficient to satisfy the whole or any part of the arrear, was in any Government-treasury, unless the defaulter had an exclusive and undisputed property therein, and unless, after the application by the defaulter within the time specified in the notification of intended sale that such money should be applied to the satisfaction of the arrear, the Deputy Commissioner neglected or refused upon insufficient grounds so to apply it; or where land is sold for an arrear of revenue due in respect thereof,

(5) that the land sold does not belong to the defaulter.

Application of proceeds of sale.

60. The proceeds of any sale under section fifty-six shall be applied as follows:

(1) to the payment of the arrear due;

(2) to the payment of any other arrear of land-revenue due by the same person;

(3) the surplus shall be paid to the person whose land has been sold; or, if the land sold were held in shares, then to the co-sharers collectively, or according to the amount of their respective interests, at the discretion of the Deputy Commissioner.

Rules as to payment of surplus to creditors.

61. Such surplus shall not be payable to any creditor of the person whose land has been sold on demand of such creditor, nor shall it be retained in the land-revenue-treasury, except under precept of a civil Court and in satisfaction of a decree of such Court; and, whenever such surplus has been paid to the creditors of the owner of any land under a precept of such Court, and the sale of such land is afterwards annulled, such owner shall not be restored to possession, until the amount so paid is returned by him with such interest as the Deputy Commissioner directs.

Purchaser's liability.

62. The person named in the certificate of title as purchaser shall be liable for all instalments of land-revenue which may fall due subsequently to the date of the certificate.

63. [*Repealed by Act No. XII of 1873.*]

CHAPTER VI.—Miscellaneous.

Powers for recovery of revenue other than land-revenue.

64. Deputy Commissioners may exercise all or any of the powers hereinbefore provided for the recovery of land-revenue, for the recovery of any other revenue due from any person to the Government.

Limitation of jurisdiction of civil Courts.

65. No civil Court shall take cognizance of any of the following matters:—

(1) claims against Government brought by any person in respect of any matter connected with the offices mentioned in section six;

(2) claims against one another, as to partition, by persons who do not contest the correctness of the entries in the record-of-rights;

(3) the formation of the record-of-rights, the preparation, signing and attestation of the documents contained therein, or the notification of an intended settlement;

(4) any matter for which provision is made in section twenty-seven;

(5) the right of any person or persons to be settled with, or the validity of any engagement with Government for the payment of land-revenue;

(6) claims arising out of, or connected with, the collection of land-revenue, or any process enforced on account of neglect or refusal to engage, or on account of an arrear of land-revenue, except where it is otherwise expressly provided in this Act.

Appeal.

In all the above cases an appeal shall lie to the Deputy Commissioner from

all orders and decisions of any officer subordinate to him; and to the Commissioner from al lorders and decisions original or appellate, of the Deputy Commissioner; and to the Financial Commissioner from all orders and decisions of the Commissioner.

Power to call for record of proceedings.

The Financial Commissioner shall have power to call for the record of any proceeding had under this section by any Revenue or Settlement-officer, and to pass such order thereon as he thinks fit.

Conduct of proceedings.

Such proceedings shall be conducted according to the rules prescribed by the Local Government.

Fees.

Such fees shall be chargeable in respect of proceedings under this section, whether original or appellate, as the Local Government from time to time, with the sanction of the Governor General in Council, directs.

Power to make rules for purposes of Act.

66. The Local Government may, with the previous sanction of the Governor General in Council, make and issue, and may with the like sanction from time to time alter, rules in accordance with the provisions of this Act to regulate and specify—

(1) the proceedings of any officer or other person who, under any provision of this Act, is required or empowered to take action in any matter;

(2) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under this Act, and not expressly provided for as regards appeal, shall be appealable;

(3) the persons by whom, the time, place and manner at or in which, anything for the doing of which provision is made in this Act shall be done;

(4) the amount of any fine to be imposed or charge to be made under the provisions of this Act;

(5) the form and contents of reports to be furnished by Settlement-officers, and the period within which such reports shall be so furnished;

(6) and generally to carry out the provisions of this Act.

Such rules shall be published in the official Gazette, and shall have the force of law.

Periodical re-publication of rules.

67. All rules having the force of law made under this Act shall, with the previous sanction of the Government of India, be re-published once at least every year, and, upon such re-publication, shall be arranged in the order of their subject-matter; and all such alterations or amendments as may have been made in the course of the preceding year, or may have become necessary or advisable, shall be embodied therewith; and upon such re-publication all previous rules shall be repealed.[a]

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[a] See *Panjáb Gazette*, 11th December, 1873, p. 732.

THE PANJÁB LAWS ACT, 1872.

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ACT No. IV OF 1872.

Received the Governor General's assent on the 28th of March 1872.

An Act for declaring which of certain rules, laws and regulations have the force of law in the Panjáb, and for other purposes.[a]

Preamble. WHEREAS certain rules, laws and regulations, made heretofore for the Panjáb, acquired the force of law under the provisions of section twenty-five of the Indian Councils' Act, 1861; and whereas it is expedient to declare which of the said rules, laws and regulations shall henceforth be in force in the Panjáb, and to amend, consolidate or repeal others of the said rules, orders and regulations; It is hereby enacted as follows :—

Short title. 1. This Act may be called "The Panjáb Laws Act, 1872:"

Local extent. 2. It extends to the territories now under the administration of the Lieutenant-Governor of the Panjáb, but not so as to alter the effect of any regulations made for any parts of the said territories under the Statute 33 Vic., cap. 3, section 1;

Commencement. And it shall come into force on the first day of June, 1872.

Enactments in force. 3. The Regulations, Acts and orders specified in the first schedule hereto annexed are in force in the Panjáb to the extent specified in the third column of the said schedule.

Enactments repealed. 4. The Regulations, Acts and orders specified in the second schedule hereto annexed are repealed to the extent specified in the third column thereof.

[a] See Act No. XII of 1878.

Civil Judicature.

5. In questions regarding succession, special property of females, betrothal, marriage, divorce, dower, adoption, guardianship, minority, bastardy, family-relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be— Decisions in certain cases to be according to Native law.

(*a*) any custom applicable to the parties concerned, which is not contrary to justice, equity or good conscience, and has not been, by this or any other enactment, altered or abolished, and has not been declared to be void by any competent authority;

(*b*) the Muhammadan law, in cases where the parties are Muhammadans, and the Hindú law, in cases where the parties are Hindús, except in so far as such law has been altered or abolished by legislative enactment, or is opposed to the provisions of this Act, or has been modified by any such custom as is above referred to.

6. In cases not otherwise specially provided for, the Judges shall decide according to justice, equity and good conscience. Decisions in cases not specially provided for.

7. All local customs and mercantile usages shall be regarded as valid unless they are contrary to justice, equity or good conscience, or have, before the passing of this Act, been declared to be void by any competent authority. Local customs and mercantile usages when valid.

Descent of Jágírs.

8. In all cases in which Government has declared any rule of descent to prevail in any family or families of assignees of land-revenue, such rule of descent shall be held to prevail, and to have prevailed, amongst them from the time when the declaration was made. Rule of descent in family of assignee of land-revenue.

Pre-emption.

9. The right of pre emption is a right of the persons hereinafter mentioned or referred to, to acquire, in the cases hereinafter specified, immoveable property in preference to all other persons. It arises in respect of sales (whether under a decree or otherwise) of immoveable property and of foreclosures of rights to redeem such property. Right of pre-emption.

10. Unless the existence of any custom or contract to the contrary is proved, such right shall, whether recorded in the settlement-record or not, be presumed— Presumption as to its existence.

(*a*) to exist in all village-communities, however constituted, and

(*b*) to extend to the village-site, to the houses built upon it, to all lands and shares of lands within the village-boundary, and to all transferable rights of occupancy affecting such lands.

Its existence in towns to be proved.

11. The right of pre-emption shall not be presumed to exist in any town or city, or any sub-division thereof, but may be shown to exist therein, and to be exercisable therein by such persons and under such circumstances as the local custom prescribes.

Devolution of right when property to be sold or foreclosed is situate within a village.

12. If the property to be sold or the right to redeem which is to be foreclosed is situate within, or is a share of, a village, the right to buy or redeem such property belongs, in the absence of a custom to the contrary,—

(*a*) first, in the case of joint undivided immoveable property, to the co-sharers;

(*b*) secondly, in the case of villages held on ancestral shares, to co sharers in the village, in order of their relationship to the vendor or mortgagor;

(*c*) thirdly, if no co-sharer or relation of the vendor or mortgagor claims to exercise such right, to the landowners of the pattí or other sub-division of the village in which the property is situate, jointly;

(*d*) fourthly, if the landowners of the pattí or other sub-division make no joint claim to exercise such right, to such landholders severally;

(*e*) fifthly, to any landholder of the village;

(*f*) sixthly, to the tenants (if any) with rights of occupancy in the property;

(*g*) seventhly, to the tenants (if any) with rights of occupancy in the village:

Provided that when the property is land to the trees standing on which the Government is entitled, such right belongs to the Lieutenant-Governor of the Panjáb in preference to all other persons.

Where two or more persons are equally entitled to such right, the vendor or mortgagor may determine which of them shall exercise the same.

Nothing in the former part of this section shall be deemed to affect the Panjáb Tenancy Act, 1868, section 34; but if a landlord refuse or neglect to exercise the right conferred on him by that section, such right belongs, first, to the tenants (if any) with rights of occupancy in the property concerned, and secondly, to the tenants (if any) with right of occupancy in the village in which such property is situate.

Notice to pre-emptors.

13. When any person proposes to sell any property, or to foreclose the right to redeem any property, in respect of which any persons have a right of pre-emption, he shall give notice to the persons concerned of the price at which he is willing to sell such property, or of the amount due in respect of the mortgage, as the case may be.

Such notice shall be given through any Court within the local limits of whose jurisdiction the property or any part thereof is situate, and shall be deemed sufficiently given if it be stuck up on the chaupál or other public place of the village, town or city in which the property is situate.

Loss of right of pre-emption.

14. Any person having a right of pre-emption in respect of any property proposed to be sold, shall lose such right, unless within three months from the date of giving such notice he pays or tenders to the person so proposing to sell, the price aforesaid or the fair market-value of the property, or deposits the same in the Court from which the notice issued. When any money is so deposited, the Court shall give notice of such deposit to the vendor or mortgagor, as the case may be.

Right of pre-emptor on foreclosure.

15. When the right of pre-emption arises in respect of the foreclosure of the right to redeem any property, any person entitled to such right may, at any time within three months after the giving of the notice required by section thirteen, pay or tender to the mortgagee or his successor in title the amount specified in such notice, or the amount really due on the footing of the mortgage, and shall thereupon acquire a right to purchase the property.

On completion of the purchase the person exercising the right of pre-emption shall be bound to pay to the mortgagee or his successor in title the amount specified in such notice, together with interest on the principal sum secured by the mortgage, at the rate specified by the instrument of mortgage, for any time which has elapsed since the date of the notice, and any additional costs which may have been properly incurred by the mortgagee or his successor in title.

Suit to enforce right of pre-emption.

16. Any person entitled to a right of pre-emption may bring a suit to enforce such right on any of the following grounds (namely) :—

(*a*) that no due notice was given as required by section thirteen;

(*b*) that tender was made under section fourteen or section fifteen and refused;

(*c*) in the case of a sale, that the price stated in the notice was not fixed in good faith;

(*d*) in the case of a foreclosure, that the amount claimed by the mortgagee was not really due on the footing of the mortgage, or was not claimed in good faith, or that it exceeds the fair market-value of the property mortgaged.

If, in the case of a sale, the Court finds that the price was not fixed in good faith, the Court shall fix such price as appears to it to be the fair market-value of the property sold.

If, in the case of a foreclosure, the Court finds that the amount claimed by the mortgagee was not really due on the footing of the mortgage, or that it was not claimed in good faith, or that it exceeds the fair market-value of the property mortgaged, the amount to be paid to the mortgagee shall not exceed what the Court finds to be such market-value.

Power to require payment into Court.

16A. When any suit is instituted under section sixteen, the Court may in its discretion require the plaintiff to pay into Court the price or market-value

of the property, or, in the case of a right to redeem property, the amount really due on the footing of the mortgage, and if such requisition is not complied with in such time as the Court directs, may reject the plaint.

Decree to fix time for payment.

17. If the Court find for the plaintiff, the decree shall specify a day not being a holiday, on or before which the purchase-money or the amount to be paid to the mortgagee shall be paid.

Effect of non-payment of purchase-money.

18. If such purchase-money or amount is not paid into Court before it rises on that day, the decree shall become void, and the plaintiff shall, so far only as relates to such sale or foreclosure, lose his right of pre-emption over the property to which the decree relates.

Party to sale by joint-owners cannot withdraw his share and claim pre-emption as to rest.

19. In case of sale by joint-owners, no person who has been a party can withdraw his own share and claim a right of pre-emption as to the rest.

Preferential right of co-sharers in well where chakdárí tenure prevails.

20. In villages in which the chakdárí tenure prevails, the co-sharers in a well have a right of pre-emption as to shares in such well in preference to a general proprietor in any such village having no share in the well but merely receiving a haq zamíndárí from the "chakdárs."

Decrees concerning Land.

Copy of decrees affecting land to be forwarded to Deputy Commissioner.

21. Every Judge of a civil Court in which a decree affecting the proprietary right in or possession of land is passed, shall cause a certified copy of such decree to be forwarded to the Deputy Commissioner of the district within a month from the making of such decree.

Insolvency.

Power to invest Courts with insolvency-jurisdiction.

22 The Local Government may invest any Court or any class of Courts with insolvency-jurisdiction in any specified local area.

Petition to Court for adjudication of insolvency.

23. Any debtor, whose debts amount to rupees five hundred or upwards, and any creditor or creditors, to whom an aggregate sum of not less than rupees five hundred is due from any such debtor, may petition the Court having local insolvency-jurisdiction that the debtor be adjudicated an insolvent.

Procedure of Court thereupon.

24. If it appear that the debtor's liabilities amount to more than rupees five hundred, the Court may—

(1) call upon the debtor to make a statement of his assets and liabilities;

(2) invite by proclamation or otherwise the appearance of persons to record claims against the debtor;

(3) register all claims so recorded;

(4) call upon the debtor to give reasonable security for his appearance, or, on default of reasonable security, order his confinement in the civil jail;

(5) attach all the debtor's property in the Panjáb, moveable or immoveable;

(6) pass an order exempting the person and property of the debtor from further legal process, pending inquiry and the final orders of the Court.

A debtor on whom the order referred to in clause six of this section is passed, is deemed an insolvent. Insolvent defined.

25. The Court shall make full inquiry into the origin, nature and circumstances of the debts, and the conduct of the debtor in relation thereto; and if the insolvent be shown to have been guilty of concealment, fraud, recklessness or other gross misconduct in reference to the debts, and if his discharge, for that reason, is opposed by any of the creditors, the Court may, at its discretion, award a term of imprisonment in the civil jail not exceeding one year. Insolvent guilty of misconduct may be imprisoned.

26. If it appear that the debtor, after becoming unable to meet his liabilities, or in expectation of becoming so, has transferred his property, or any part thereof, with a view to defrauding his creditors, or to giving one or more creditors a fraudulent preference over the others, the Court shall annul such transfer, and treat the property transferred as the other property of the debtor. Fraudulent transfers in expectation of insolvency may be annulled.

27. The property of the insolvent shall be sold or administered, under the direction of the Court, either through the agency of its own officers or of assignees to be appointed by the Court, in the manner most conducive to the interest of the creditors, and the proceeds shall be divided rateably amongst them. Power of Court to sell or administer insolvent's estate.

28. The Court shall give effect to any composition or arrangement agreed upon between the debtor and the majority of the creditors: Provided that no injustice or injury appears to be inflicted by such composition or arrangement on any of the parties concerned, and that no fraud nor collusion is suspected. If any creditor objects to such arrangement, the Court shall decide as to the reasonableness of the objection. Power to give effect to compositions.

29. When the sale or administration of the insolvent's property is complete, the Court may order the insolvent to be discharged, on his signing an agreement to liquidate, from any property which he may subsequently acquire, such portion of his debts as remains unpaid. When Court may order discharge of insolvent.

Such order of discharge shall preclude any creditor whose claim is registered from suing the debtor in respect of such claim, unless it be shown that the debtor has acquired property, since the order of discharge, out of which the claim might have been defrayed. Effect of order.

Foregoing rules not to apply to persons admitted to benefit of insolvency-law in presidency-towns.

30. Nothing in the preceding sections shall apply to persons who may have been admitted to the benefit of any insolvency-law at a presidency-town; nor shall any order passed under the preceding sections affect the remedy of any creditor against his debtor in respect of property which, at the time of the insolvency of such debtor, was not in the Panjáb.

Chief Court empowered to frame rules.

31. The Chief Court of the Panjáb may, with the sanction of the Local Government, from time to time frame and issue rules, conformable to the provisions hereinbefore contained, for the better administration of insolvent estates, and may with the like sanction alter any such rules.

Power to exclude any class from operation of such rules.

32. The Local Government may at any time, with the previous sanction of the Governor General in Council, exclude any particular class or race from the operation of these rules.

Saving of previous insolvency-proceedings.

33. No proceedings of any Court in the exercise of insolvency-jurisdiction, had before the passing of this Act, shall be held to have been invalid solely on the ground that such Court did not possess such jurisdiction; all cases pending in any Court of Insolvency when this Act comes into force, shall be subsequently conducted, so far as may be, in conformity with the rules now prescribed.

Minors and the Court of Wards.

Bar of jurisdiction in certain cases.

34. Deputy Commissioners shall be Courts of Wards within their respective districts, but shall exercise the functions of such Courts subject to the control of the Commissioner and Financial Commissioner.

Jurisdiction of Court of Wards.

35. The Court of Wards may, at its discretion, take charge of, and administer, the estates of all disqualified persons, that is to say:—

(*a*) females deemed by the Local Government incompetent to manage their estates;

(*b*) persons who have not completed the age of eighteen years;

(*c*) idiots;

(*d*) lunatics;

(*e*) persons declared by the Local Government incapable, owing to physical defects or infirmities, of managing their own estates;

(*f*) persons convicted of a non-bailable offence and unfitted, in the opinion of the Local Government, by vice or bad character to manage their estates;

(*g*) persons declared by the Local Government, on their own application, to be unfitted, to manage their estates:

Proviso.

Provided that the Court of Wards shall not take charge of, or administer, the estate of any person of any of the classes mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of this section, unless he has inherited a beneficial interest in an estate for which a settlement was made with his ancestor, or in respect of which he

would have been entitled to be settled with, if he had been competent to make an agreement for the payment of revenue, or unless he is the holder by inheritance of an assignment of land-revenue :

Provided also that the Court of Wards shall not take charge of, or administer any beneficial interest in, an estate in which more persons than one have a joint undivided interest, unless all such persons are so circumstanced as to be subject to the Court of Wards. Further proviso.

36. The Deputy Commissioner may make an inquiry into the minority, lunacy or idiocy of any person, who, he has reason to believe, would, if found to be a minor, lunatic or idiot, be subject to the jurisdiction of the Court of Wards, and into the circumstances and property of any such person, and may make an order declaring such person to be subject to the jurisdiction of the Court of Wards. Deputy Commissioner may inquire into circumstances affecting jurisdiction.

37. Any such person may appeal to the Commissioner of the Division against any such order on the ground that he is not, or has ceased to be, a minor, or that he is not, or has ceased to be, a lunatic or idiot, and the decision of the Commissioner shall be certified to the Court of Wards, and shall be final. Appeal to Commissioner against order under section 36.

38. The jurisdiction of the Court of Wards shall extend to the care and education, and to the management of the property, of the persons subject thereto; and the Local Government shall make rules as to the manner in which, and the agents by whom, such jurisdiction shall be exercised.[a] Extent of jurisdiction.

Persons whose property is under the superintendence of the Court of Wards shall not be competent to create, without the sanction of the Court, any charge upon, or interest in, such property or any part thereof.

Criminal Judicature.

39. The provisions of the Indian Penal Code, with the exception of chapter VI, shall be applicable to all offences committed before first January 1862, in territory which was, at the time of the commission of such offence, subject to the Government of the Panjáb : Indian Penal Code to apply to offences committed previous to first January 1862.

Provided that nothing contained in this section shall affect any privilege conferred on certain Chiefs in the Panjáb by the Governor General in Council, or by the Board of administration for the affairs of the Panjáb, nor any indemnity or pardon granted by competent authority. Saving of privileges conferred on certain Chiefs.

39A. The Local Government may establish a system of village-watchmen in any part of the territories under its administration and not comprised within the limits of a municipality, and in furtherance of this object may from time to time make rules to provide for the following matters :— Power to establish village-watchman-system and to make rules.

(*a*) the definition of the limits of watchmen's beats ;

[a] See *Panjáb Gazette*, 31st July, 1873, p. 462.

(*b*) the determination of the several grades of watchmen, and the number of each grade to be appointed to each beat;

(*c*) the appointment, suspension, dismissal and resignation of watchmen of each grade;

(*d*) the equipment and discipline of, and the control and supervision over, such watchmen;

(*e*) the conferring upon them, and the exercise by them, of any powers, and the enjoyment by them of any protection or privilege, which may be exercised and enjoyed by a Police-officer under any Act for the time being in force;

(*f*) the performance by them of such duties relating to Police, sanitation or statistics, or for the benefit of the village-communities within their beat, as the Local Government thinks fit;

(*g*) the exercise of authority over, and the rendering of aid to, such watchmen, by the headmen of the villages comprised in their respective beats;

(*h*) the performance, by the headmen of the villages comprised in the beat, of any of the duties of a village-watchman in aid of, or substitution for, such watchman;

(*i*) the exercise, by such village-headmen, of any of the powers, and the enjoyment by them of any privilege or protection, of a village-watchman for the purposes referred to in clauses (*g*) and (*h*) of this section;

(*j*) the determination of the rate at which, and the mode in which, watchmen shall be paid, and of the mode in which their pay, the expenses of their equipment, and other charges connected with the village-watchman-system, shall be provided for, whether out of cesses or funds already leviable or available in the villages comprised in the beat, or by a special tax in money or kind to be imposed on any class of persons residing or owning property in or resorting to such villages, or partly in one of these ways and partly in the other;

(*k*) the collection with or without the aid of the village-headmen, and by any process available for the realization of the land-revenue, of any tax imposed under clause (*j*) of this section, and the application of, and the mode of accounting for, the same;

(*l*) the efficient working of the village-watchman-system generally.

Provided—

1*st*, that the rules to be made regarding the appointment of village-watchmen shall allow to the headmen of the villages comprised in the beat to which such a watchman is to be appointed, a power of nomination to be exercised in such manner, and subject to such reasonable conditions, as may be prescribed by such rules;

2*ndly*, that the rules to be made under clause (*j*) of this section shall include provisions for recording and securing due consideration of the views and opinions of the headmen of such beat on the matters therein referred to.

Obligation to assist watchmen and headmen.

39B. Every person is bound to render to a village-watchman or village-headman discharging the duties of a Police-officer under the rules made hereunder, all the assistance which he is bound to render to a Police-officer.

Person obstructing watchman or headman may be arrested without warrant.

Any person who obstructs such watchman or headman in the discharge of such duties may be arrested without warrant by a Police-officer or by any village-headman or watchman empowered in this behalf by the Local Government.

Power to direct local taxation for payment of Police enrolled under Act V of 1861.

39C. Whenever it seems to the Local Government expedient that the duties of watch and ward and other internal Police-service of any town or village not comprised within the limits of a municipality or within the limits of a village-watchman's beat as defined under the power conferred by section thirty-nine A, should be performed by Police-officers enrolled under Act V of 1861, the Local Government may direct that the said service shall be so performed, and may also, with the previous sanction of the Governor General in Council, direct that the charges for the time being fixed by such Government on account of such service shall be defrayed by taxes to be levied in such town or village.

Issue of notice of taxes proposed to be levied.

39D. When the Local Government has, under section thirty-nine C, directed that taxes shall be levied in any town or village, the Deputy Commissioner may from time to time issue a public notice in such town or village, explaining the nature of the taxes he proposes to levy.

Objections to taxation.

Any inhabitant of such town or village objecting to the taxation thus proposed may, within fifteen days from the publication of such notice, send his objection in writing to the Deputy Commissioner.

Procedure thereon.

After the expiry of fifteen days from the publication of the notice, the Deputy Commissioner may submit, for the information of the Local Government, a report of the proposal made by him. Such report shall contain specific mention of the objections, if any, urged to his proposal, and his opinion on such objections.

No such tax shall be levied until it has, upon such report, been approved by the Local Government.

Power to fix rates of tax.

39E. When any such tax has been so approved by the Local Government, the Deputy Commissioner may from time to time, subject to such rules consistent with this Act as the Local Government may from time to time prescribe, determine the rates at which it is to be levied.

Power to

39F. The Local Government may from time to time make rules to pro-

make rules for collection of taxes.

vide for the collection of such taxes by any process available for the realization of the land-revenue, and to regulate the application and mode of accounting for the same.

Indemnity-clause.

39G. All taxes and collections which have been hitherto levied for the purposes of village and town-police, or for the maintenance of village-watchmen, shall be deemed to have been levied in accordance with law.

Honorary Police-officers.

Local Government may confer powers of Police-officer.

40. The Local Government may, if it thinks fit, confer on any person any of the powers which may be exercised by a Police-officer under any Act for the time being in force, and may withdraw any powers so conferred.

Track Law.

Trackers may call for assistance in carrying on tracks.

41. When an offence is, has been, or may reasonably be supposed to have been, committed, and the tracks of the persons who may reasonably be supposed to have committed such offence, or of any animal or other property reasonably supposed to be connected with such offence, are followed to a spot within the immediate vicinity of a village, the person following such tracks may call upon any headman or village-watchman in such village to assist in carrying on the tracks.

Penalty for withholding assistance or conniving at offence or escape.

42. If such headman or watchman do not forthwith give such assistance, or if the inhabitants of such village do not afford full opportunity for search in their houses for the offenders, or if, from the circumstances of the case, there shall appear good reason to believe that the inhabitants of such village, or any of them, were conniving at the offence or at the escape of the offenders, and such offenders cannot be traced beyond the village, the Magistrate of the district may, with the previous sanction of the Commissioner of the Division, inflict a fine upon such village not exceeding five hundred rupees, except in the case of stolen property over five hundred rupees in value, in which case the fine shall not exceed the value of such property.

Limit to fine.

Appeal to Chief Court.

An appeal against all convictions under this section shall lie to the Chief Court.

Fine may be awarded to injured parties, and fee to tracker.

The Magistrate may direct that the fine imposed under this section or any part thereof, shall be awarded to any persons injured by such offence in compensation for such injury; and, in the case of stolen property recovered through the agency of a tracker, may direct that such property be not restored to its owner until he has paid to such tracker such fee, not exceeding one-fourth part of the value of the stolen property, as to the said Magistrate seems fit.

Slaughter of Kine.

43. The slaughter of kine and the sale of beef shall not take place, except subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government. Control of slaughter of kine and sale of beef.

Armed Men and Foreign Vagrants.

44. No band of armed men shall enter into any city or town, except subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government. Control of entry into towns of bands of armed men.

45. The Magistrate of the district may, if he considers that any band of foreign vagrants is likely to occasion a breach of the peace or to commit any offence under the Indian Penal Code, prohibit such band from entering his district; or, if they are already in his district, may require them within a given time to leave it. Powers of Magistrate of district as to foreign vagrants.

46. If any such band fail to comply with the orders of the said Magistrate within the prescribed period, he shall report the matter to the Local Government, and the Local Government may give such directions for the surveillance, control or deportation of such band, as to it seems fit. Surveillance, &c., of band failing to comply with Magistrate's order.

Miscellaneous.

47. No person shall cross any river or stream on a buoy or inflated skin, nor shall have in his possession or custody any buoy or skin for the purpose of being used in crossing any river or stream, except subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government. Crossing of streams on buoys or skins.

48. No person shall make use of the pasturage or other natural product of any land being the property of the Government, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government. Use of pasturage or natural product of Government-land.

49. No person shall grow, sell or keep in his possession any opium, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government.[a] Growing, selling or keeping opium.

50. The Local Government may from time to time make rules as to the matters mentioned in sections forty-three to forty-nine inclusive. Power to make rules as to matters mentioned in sections 43 to 49.

All existing rules upon such matters, which might have been made under Existing rules.

[a] Repealed by Act No. 1 of 1878, which, however, has not yet come into force in the Panjáb.

this section had it been in force, shall be deemed to have been made hereunder.

Conditions of validity of rules hereafter made under this Act.

50A. No rules hereafter made by the Local Government under any power conferred by this Act shall be valid unless—

(*a*) they are consistent with the laws for the time being in force in the Panjáb;

(*b*) they are published in the official Gazette;

(*c*) previous to such publication they are sanctioned by the Governor General in Council.

Penalties for breach of such rules.

50B. The Local Government may, in making any rule under any of the powers conferred by this Act, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment on conviction before a Magistrate not exceeding six months' imprisonment, or three hundred rupees fine, or both.

Republication of rules and orders.

51. All rules which the Local Government is empowered to issue under this Act, and all circulars issued by the Chief Court, shall, with the previous sanction of the Governor General in Council, be republished once at least in every year; and, upon such republication, shall be arranged in the order of their subject-matter; and all such alterations or amendments as may have been made in the course of the preceding year, or may have become necessary or advisable, shall be embodied therewith; and upon such republication all such rules and circulars, previously issued, shall be repealed.

Recovery of advances made by Government.

52. All advances made by the Local Government to landholders for the relief of distress, the purchase of seed and cattle, the construction, maintenance and repair of dwelling-houses and other buildings, and for other purposes not specified in the Land Improvement Act, 1871, shall, when they become due, be recoverable from the person to whom the advance was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land-revenue due by the person to whom the advance was made or by his surety.

SCHEDULE I.

ENACTMENTS DECLARED TO BE IN FORCE.

Explanation.—This schedule does not refer to any Act which is in its terms applicable to the Panjáb, or which has been extended to the Panjáb by competent authority.

Number and year.	Title.	Extent to which the enactment is in force.
Reg. I of 1798 ...	A Regulation to prevent Fraud and Injustice in Conditional Sales of Land under Deeds of Bai-bil-wafa, or other Deeds of the same nature.	The whole, except such parts as relate to interest.
Reg. X of 1804 ...	A Regulation for declaring the Powers of the Governor General in Council to provide for the immediate Punishment of certain Offences against the State by the sentence of Courts Martial.	The whole, so far as it is not modified by Act V of 1841.
Reg. XVII of 1806 ...	A Regulation for extending to the Province of Benares the Rates of Interest on future Loans, and Provisions relative thereto, contained in Regulation XV, 1793; also for a general extension of the period fixed by Regulations I, 1798, and XXXIV, 1803, for the redemption of Mortgages and Conditional Sales of Land, under Deeds of Bai-bil-wafa, Katkabála, or other similar designation.	Sections seven and eight.
Reg. V of 1817[a] ...	A Regulation for declaring the Rights of Government and of Individuals with respect to hidden Treasure, and for prescribing the Rules to be observed on the Discovery of such Treasure.	The whole.
Reg. III of 1818 ...	A Regulation for the Confinement of State Prisoners.	The whole.
Reg. XI of 1825 ...	A Regulation for declaring the Rules to be observed in determining Claims to Lands gained by alluvion, or by dereliction of a river or the sea.	The whole.
Reg. XX of 1825 ...	A Regulation for declaring the jurisdiction of the Military Courts Martial and Courts of Requests, constituted by a recent Act of Parliament, and for modifying some parts of the existing Regulations in conformity thereto.	Sections two and four.
Act XL of 1858 ...	An Act for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal.	The whole.

[a] Repealed by Act No. VI of 1878.

SCHEDULE I—(*concluded*).

ENACTMENTS DECLARED TO BE IN FORCE—(concluded).

Number and year.	Title.	Extent to which the enactment is in force.
Act XVII of 1861 ...	An Act to amend Act XIV of 1843 (for regulating the Customs Duties in the North-Western Provinces).	The whole, the word "Panjáb" being substituted for the words "North-Western Provinces."
	"Rules for the conservancy of Forests and Jungles in the Hill Districts of the Panjáb Territories, sanctioned by the Governor General in Council, in letter of the Secretary to the Government of India, No. 1789, 21st May 1855."	The whole.

SCHEDULE II.

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
	All Bengal Regulations now in force in the Panjáb, except those specified in schedule I.[a]	The whole.
	All rules, laws and regulations made for the Panjáb and its Dependencies, or for any part thereof, by the Governor General of India, or the Governor General of India in Council or the Lieutenant-Governor of the Panjáb otherwise than at meetings for making laws and regulations in conformity with the provisions of the Acts of the 3rd and 4th years of King William the Fourth, Chapter eighty-five, and of the 16th and 17th years of Her Majesty, Chapter ninety-five, or other Act in force for the time being, except those specified in schedule I.	The whole.
Act VI of 1846 ...	An Act for the more convenient administration of the government of the country called the Bhattí Territory.	The whole.
Act I of 1847 ...	An Act for the establishment and maintenance of Boundary-marks in the North-Western Provinces of Bengal.	The whole, so far as it affects the Panjáb.

[a] This repeals Reg. VI of 1819, as to ferries.

SCHEDULE II—(*concluded*).

ENACTMENTS REPEALED—(concluded).

Number and year.	Title.	Extent of repeal.
Act III of 1870 ...	An Act to remove the Agror Valley from the jurisdiction of the tribunals established under the general Regulations and Acts, and for other purposes.	The whole, so far as it is unrepealed.

ACT No. XXVI OF 1872.

Received the Governor General's assent on the 12th of October 1872.

An Act to amend the Law relating to Opium in the Panjáb.[a]

Preamble. WHEREAS it is expedient to amend the law relating to opium in the Panjáb; It is hereby enacted as follows :—

Short title. 1. This Act may be called "The Panjáb Opium Law Amendment Act, 1872:"

Local extent. It extends only to the territories under the government of the Lieutenant-Governor of the Panjáb;

Commencement. And it shall come into force on the first day of January 1873.

'Opium' defined. 2. In this Act and in the Panjáb Laws Act, 1872, 'opium' includes also poppy-heads and all intoxicating drugs prepared from the poppy.

Modification in certain districts of Act X of 1871, sections 15, 19, 62, 65 and 66. 3. Wherever in the said territories an acreage duty is for the time being leviable on the cultivation of the poppy, sections fifteen, nineteen, sixty-two, sixty-five and sixty-six of the Excise Act, 1871, shall have no effect so far as they restrict, directly or indirectly, the sale of opium grown within the said territories, or prohibit the possession or sale of such opium by persons other than licensed vendors.

Burden of proof in prosecutions. 4. In prosecutions under the said sections respectively, it shall be assumed, until the contrary is proved, that the opium in respect of which an offence is alleged to have been committed, has been grown without the said territories.

Confiscation of opium. 5. Whenever any rule made by the Local Government under the Panjáb Laws Act, 1872, and relating to the growth, sale or possession of opium, is broken, the opium in respect of which the breach is committed shall be liable to confiscation.

[a] Repealed by Act No. I of 1878, which, however, has not yet come into force in the Panjáb.

THE PANJÁB MUNICIPAL ACT, 1873.

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ACT No. IV of 1873.

Received the Governor General's assent on the 21st of January 1873.

An Act to provide for the appointment of Municipal Committees in the Panjáb, and for other purposes.

Preamble.

WHEREAS it is expedient to provide for the appointment of Municipal Committees in towns in the Panjáb, and for police, conservancy, local improvements and education in such towns, and for the levying of rates and taxes therein; It is hereby enacted as follows :—

I.—Preliminary.

Short title.

1. This Act may be called "The Panjáb Municipal Act, 1873 :"

Local extent.

It extends only to the territories under the government of the Lieutenant-Governor of the Panjáb;

Existing extensions and appointments.

2. All extensions and appointments made, and all limits defined, under Act No. XV of 1867[a] shall be deemed to be, respectively, made and defined under this Act. And an extension of any particular provision of Act No. XV of 1867 shall be deemed to be an extension of the corresponding provision of this Act.

Existing assessments and bye-laws.

And all assessments, bye-laws, rules and regulations of any kind, relating to matters provided for by this Act, which may heretofore have been made or approved by the Local Government, shall be deemed to have been made under this Act.

Former proceedings.

And all proceedings taken under any such assessments, bye-laws, rules and regulations shall be deemed to be as valid as if they had been taken under this Act.

"Committee" defined.

3. In this Act "committee" means a municipal committee under this Act.

Power to extend Act to towns.

4. The Local Government may, by notification published in the *Panjáb Gazette*, declare its intention to extend this Act, or any of its provisions, to any town in the said territories.

Objection to such extension.

Any inhabitant of such town objecting to such extension may, within six weeks from the said publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration.

Procedure thereon.

When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if, in its opinion, they are insufficient, may, by like notification, effect the proposed extension.

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[a] Repealed by this Act.

Power to define limits of towns to which Act extends

5. For the purposes of this Act, the Local Government may, from time to time, by notification in the *Panjáb Gazette*, declare what shall be deemed to be a town for the purposes of this Act, and define the limits of any town to which this Act has been extended.

II.—Appointment, Duties and Powers of Committees.

Appointment of committee.

6 In every town to which this Act is extended, the Local Government shall appoint, or cause to be appointed, a committee consisting of not less than five members.

Such members may be appointed as the Local Government from time to time directs, either *ex officio*, or by nomination, or by election, or some by one and some by any other of such methods:

Provided that (except with the approval of the Governor General in Council) not less than two-fifths of the members of a committee shall be persons other than salaried officers of Government.

The Local Government may—

(*a*) from time to time remove any of the members of any committee, add to their number, and fill up vacancies occurring among them;

(*b*) determine the time and manner of the election of those members whom it may direct to be appointed by election, and the persons by whom they shall be elected, and generally make such rules as it thinks fit for regulating such election;

(*c*) appoint the President and Vice-president, or either of them, of any committee, or authorise any committee to appoint, by election from their number, such President, or Vice-president, or both.

No appointment under this section, other than the appointment by election of a Vice-president, shall be valid unless and until it is notified in the *Panjáb Gazette*.

Power to levy rates or make assessments.

7. Subject to any general rules or special orders which the Governor General in Council may from time to time make in this behalf,

every committee intending to impose taxes for the purposes of this Act shall, from time to time, give public notice of such intention, and shall in such notice define the persons or property within the town to be taxed for the purposes of this Act, and the amount or rate of the taxes to be imposed hereunder.

Objection to rates.

Any inhabitant of such town objecting to such notice may, within a fortnight from the date of the said notice, send his objection in writing to the President of the committee, and the committee shall take such objection into consideration and report their opinion thereon to the Local Government.

Procedure thereon.

When a fortnight from the date of the said notice has expired, if no such objections have been sent as aforesaid, or (where such objections have been sent

in) if, in the opinion of the committee, they are insufficient, the committee may, with the previous sanction of the Local Government, to be notified in the *Panjáb Gazette*, define the persons or property and the amount or rate of the taxes aforesaid, and may then impose such taxes accordingly.

Power to make rules for collection and application of rates.

8. The Local Government may from time to time make rules—

as to the persons by whom, and the manner in which, any assessment of taxes under this Act shall be confirmed,

and for the collection of such taxes;

and for the safety and due application of them when collected;

and for the rendering and publishing of such estimates and accounts relating to the expenditure of the municipal funds, in such form as it may think fit.[a]

No tax shall be collected under this Act, until the assessment thereof has been confirmed by the persons and in manner for the time being prescribed by such rules.

Recovery of rates.

9. Rates and arrears of rates imposed under this Act may be recovered as they were arrears of land-revenue.

Municipal Fund.

10. All sums received by the committee of any town to which this Act extends, and all fines levied under this Act, shall constitute a fund, which shall be called the municipal fund of such town, and shall, together with all property which may become vested in such committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

Duties and powers of committees.

11. Every committee, so far as the municipal fund at their disposal permits, shall, after providing out of such fund for a police-establishment in manner hereinafter mentioned,

keep the public streets, roads, drains, tanks and water-courses of the town for which they are appointed clean and repaired;

and, generally, may do all acts and things necessary for the construction, repair and maintenance of local public works of general utility;

and may also make provision, by the establishment of new schools or the aiding of already existing schools or otherwise, for the promotion of education;

and may also make provision for promoting the public health, safety, comfort and convenience.

Provision for police.

12. Every committee shall set apart out of the municipal fund such sum as the Local Government from time to time requires for the maintenance of the police-establishment in the town for which the committee is appointed.

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[a] See *Panjáb Gazette*, 28th May, 1874, p. 166.

Power to make rules as to business and officers.

13. Every committee may make rules for regulating—

the time and place of their meeting;

the conduct of their business;

the division of duties among the members of the committee;

the duties, salaries, appointment, suspension and removal of the officers and servants of the committee;

and other similar matters.

Power to make bye-laws.

14. Any committee may make bye-laws—

(*a*) for defining, prohibiting and abating nuisances which are not public or common nuisances under the Indian Penal Code, or under Act No. V of 1861 (*for the regulation of Police*):

(*b*) for defining the cases, manner and times in and at which the officers of the committee may enter upon private property for the detection and abatement of nuisances:

(*c*) for securing a proper registration of births and deaths;

(*d*) and for carrying out all or any of the purposes of this Act.

The committee may, from time to time, repeal, alter or add to any bye-laws made under this section.

Bye-laws to be confirmed and published.

15 No bye-law, and no alteration or repeal of, or addition to, a bye-law, shall have effect until it has been confirmed by the Local Government.

All bye-laws made under this Act, and all rules made under section thirteen, and all alterations and repeals of, and additions to, such bye-laws and rules shall, before coming into force, be published for such length of time, and in such manner, as the Local Government from time to time directs.

Power to enter on private property.

16. The officers of the committee shall have power to enter upon private property for the detection and abatement of nuisances when the committee shall, under section fourteen, clause (*b*), have made bye-laws regulating the exercise of such power.

Power to suspend or limit powers of committees.

17. The Local Government may, by order, suspend or limit all or any of the powers of any committee, and may also cancel any of their proceedings, rules or bye-laws, and remit or reduce any tax which they have imposed.

III.—Suits by and against Committees.

Suits by and against committees

18. Every committee shall sue and be sued in the name of their President.

Contracts of committees.

Every contract made on behalf of any committee in respect of any sum or property exceeding twenty rupees in amount or value, shall be in writing, and shall be signed by the President or Vice-president (if any) and at least two other members of the committee.

No contract, unless so executed, shall be binding on the committee on whose behalf it is made.

Liability of members of committees.

No member of a committee shall be personally liable for any contract made or expense incurred by or on behalf of the committee; but the funds from time to time in the hands of the committee shall be liable for, and chargeable with, contracts duly made as aforesaid.

Every member of a committee shall be liable for any misapplication of money entrusted to the committee, to which he has been a party, or which happens through, or is facilitated by, his neglect of his duty;

and he shall be liable to be sued for the same in such Court as the Local Government directs as for money due to the Secretary of State for India in Council.

Bar of suit in absence of one month's notice of cause of suit.

19. No suit shall be brought against a committee or any of their officers, or any person acting under their direction, for anything done, or purporting to be done, under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of the committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intended plaintiff.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within three months next after the accrual of the right to sue and not afterwards.

And if any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

IV.—Penalties.

Penalty on member or servant of committee being interested in contracts made with committee.

20. No member or servant of a committee shall be interested, directly or indirectly, in any contract made with the committee, and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of five hundred rupees:

Provided that no person, by being a shareholder in, or member of, any incorporated or registered Company, shall be disqualified from acting as a member or servant of a committee by reason of any contract entered into between such Company and the committee.

Nevertheless it shall not be lawful for such shareholder or member to act as a member of the committee in any matter relating to any contract entered into between the committee and such Company.

Penalty for infringement of bye-laws

21. Whoever infringes any bye-law made and confirmed as directed in this Act, shall be liable to a fine not exceeding fifty rupees, and, in the case

or non-payment of fines.

of a continuing infringement, to a fine not exceeding five rupees for every day after notice from the committee of such infringement.

In default of payment of any fine imposed under this section, the defaulter shall be liable to simple imprisonment for a term not exceeding eight days.

Prosecutions.

22. Prosecutions under this Act for infringements of bye-laws may be instituted before any Magistrate by the committee, or by any person authorized by the committee in this behalf.

Recovery of fines

23. Fines imposed under this Act may be recovered in manner provided by the Code of Criminal Procedure.

THE NORTHERN INDIA CANAL AND DRAINAGE ACT, 1873.

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ACT No. VIII OF 1873.

Received the Governor General's assent on the 11th of February 1873.

An Act to regulate Irrigation, Navigation and Drainage in Northern India.

Preamble.

WHEREAS, throughout the territories to which this Act extends, the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels, and of all lakes and other natural collections of still water; and whereas it is expedient to amend the

law relating to Irrigation, Navigation and Drainage in the said territories; It is hereby enacted as follows :—

PART I.—PRELIMINARY.

Short title. 1. This Act may be called "The Northern India Canal and Drainage Act, 1873:"

Local extent. It extends to the territories for the time being respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh and the Central Provinces; and applies to all lands whether permanently settled, temporarily settled, or free from revenue.

2. [*Repealed by Act No. XII of 1873.*]

Interpretation-clause. 3. In this Act—unless there be something repugnant in the subject or context—

"Canal." (1) "Canal" includes—

(*a*) all canals, channels and reservoirs constructed, maintained or controlled by Government for the supply or storage of water;

(*b*) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;

(*c*) all water-courses as defined in the second clause of this section;

(*d*) any part of a river, stream, lake or natural collection of water, or natural drainage-channel, to which the Local Government has applied the provisions of Part II of this Act;

"Water-course." (2) "Water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to any such channel;

"Drainage-work." (3) "Drainage-work" includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns;

"Vessel." (4) "Vessel" includes boats, rafts, timber and other floating bodies;

"Commissioner." (5) "Commissioner" means a Commissioner of a Division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner;

"Collector." (6) "Collector" means the head revenue-officer of a district, and includes a Deputy Commissioner or other officer appointed under this Act to exercise all or any of the powers of a Collector;

"Canal-officer." (7) "Canal-officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof;

"Superintending Canal-officer" means an officer exercising general control over a canal or portion of a canal; "Superintending Canal-officer."

"Divisional Canal-officer" means an officer exercising control over a division of a canal; "Divisional Canal-officer."

"Sub-Divisional Canal-officer" means an officer exercising control over a sub-division of a canal; "Sub-Divisional Canal-officer."

(8) "District" means a district as fixed for revenue purposes. "District."

4. The Local Government may from time to time declare, by notification in the official Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed. Power to appoint officers.

All officers mentioned in section three, clause (7), shall be respectively subject to the orders of such officers as the Local Government from time to time directs.

PART II.—Of the Application of Water for public Purposes.

5. Whenever it appears expedient to the Local Government that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal or drainage-work, Notification to issue when water-supply is to be applied for public purposes.

the Local Government may, by notification in the official Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

6. At any time after the day so named, any Canal-officer, acting under the orders of the Local Government in this behalf, may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water. Powers of Canal-officer.

7. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places, stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section eight may be made before him. Notice as to claims for compensation.

8. No compensation shall be awarded for any damage caused by— Damage for which compensation shall not be awarded.

(*a*) stoppage or diminution of percolation or floods;

(*b*) deterioration of climate or soil;

(*c*) stoppage of navigation, or of the means of drifting timber or watering cattle;

(*d*) displacement of labour.

Matters in respect of which compensation may be awarded.

But compensation may be awarded in respect of any of the following matters :

(*e*) Stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the said notification :

(*f*) Stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification :

(*g*) Stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification :

(*h*) Damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1877, Part IV :

(*i*) any other substantial damage, not falling under any of the above clauses (*a*), (*b*), (*c*) or (*d*), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

In determining the amount of such compensation, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed; and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual nett profits of such property, caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clause (*e*), (*f*) or (*g*) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant or under the Indian Limitation Act, 1877, Part IV.

And no right to any of the advantages referred to in clauses (*a*), (*b*) and (*c*) of this section shall be acquired, as against the Government, under the same Part.

Limitation of claims

9. No claim for compensation for any such stoppage, diminution or damage shall be made after the expiration of one year from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Enquiry into claims and amount of compensation.

10. The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant; and sections nine to twelve (inclusive), fourteen and fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, fifty-

seven, fifty-eight and fifty-nine of the Land Acquisition Act, 1870,[a] shall apply to such enquiries:

Provided that, instead of the last clause of the said section twenty-six, the following shall be read: "The provisions of this section and of section eight of the Northern India Canal and Drainage Act, 1873, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded."

Abatement of rent on interruption of water-supply.

11. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed under section eight, takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

Enhancement of rent on restoration of water-supply.

12. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

Compensation when due.

13. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of,

Interest.

and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same.

PART III.—Of the Construction and Maintenance of Works.

Power to enter and survey, &c.

14. Any Canal-officer or other person acting under the general or special order of a Canal-officer,

may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon;

and dig and bore into the sub-soil;

and make and set up suitable land-marks, level-marks and water-gauges;

and do all other acts necessary for the proper prosecution of any enquiry

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[a] See General Acts, Vol. II, p. 1226.

relating to any existing or projected canal under the charge of the said Canal-officer:

Power to clear land.

and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle;

Power to inspect and regulate water-supply.

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal:

Notice of intended entry into houses.

Provided that, if such Canal-officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

Compensation for damage caused by entry.

In every case of entry under this section, the Canal-officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section; and in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final.

Power to enter for repairs and to prevent accidents.

15. In case of any accident happening or being apprehended to a canal, any Divisional Canal-officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Compensation for damage to land.

In every such case, such Canal-officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal-officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the Local Government had directed the occupation of the lands under section forty-three of the Land Acquisition Act, 1870.*

Application by persons desiring to use canal-water.

16. Any persons desiring to use the water of any canal, may apply in writing to the Divisional or Sub-Divisional Canal-officer of the division or sub-division of the canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicants.

Contents of application.

The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicants are willing to pay for the

* See General Acts, Vol II, p. 1226.

same, or whether they engage to pay the actual cost as settled by the Divisional Canal-officer, and how the payment is to be made.

Liability of applicants for cost of works.

When the assent of the Superintending Canal-officer is given to such application, all the applicants shall, after the application has been duly attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

Recovery of amount due.

Any amount becoming due under the terms of such application, and not paid to the Divisional Canal-officer, or the person authorized by him to receive the same, on or before the date on which it becomes due, shall, on the demand of such officer, be recoverable by the Collector as if it were an arrear of land-revenue.

Government to provide means of crossing canals.

17. There shall be provided, at the cost of Government, suitable means of crossing canals constructed or maintained at the cost of Government, at such places as the Local Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Collector shall cause enquiry to be made into the circumstances of the case, and if he thinks that the statement is established, he shall report his opinion thereon for the consideration of the Local Government, and the Local Government shall cause such measures in reference thereto to be taken as it thinks proper.

Persons using water-course to construct works for passing water across roads, &c.

18. The Divisional Canal-officer may issue an order to the persons using any water-course to construct suitable bridges, culverts or other works for the passage of the water of such water-course across any public road, canal or drainage-channel in use before the said water-course was made, or to repair any such works.

If they fail, Canal-officer may construct,

Such order shall specify a reasonable period within which such construction or repairs shall be completed;

and if, after the receipt of such order, the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the said Canal-officer, he may, with the previous approval of the Superintending Canal-officer, himself construct or repair the same;

and recover cost.

and if the said persons do not, when so required, pay the cost of such construction or repairs as declared by the Divisional Canal-officer, the amount shall, on the demand of the Divisional Canal-officer, be recoverable from them by the Collector as if it were an arrear of land-revenue.

Adjustment of claims between persons jointly using water-course.

19. If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construc-

tion or maintenance, the divisional or sub-divisional Canal-officer, on receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that, on the expiration of a fortnight from the service, he will investigate the case; and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit.

Such order shall be appealable to the Commissioner, whose order thereon shall be final.

Recovery of amount found due.

Any sum directed by such order to be paid within a specified period, may, if not paid within such period, and if the order remains in force, be recovered by the Collector, from the person directed to pay the same, as if it were an arrear of land-revenue.

Supply of water through intervening water-course.

20. Whenever application is made to a Divisional Canal-officer for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed; and, after making enquiry on such day, the Divisional Canal-officer shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal-officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal-officer may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application for construction of new water-course.

21. Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal-officer, stating—

(1) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;

(2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for acquiring such right;

(3) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

Procedure of Canal-officer thereupon.

22. If the Divisional Canal-officer considers—

(1) that the construction of such water-course is expedient, and

(2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section twenty-eight;

and, upon such deposit being made, he shall cause enquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every district in which any part of such land is situate.

Application for transfer of existing water-course.

23. Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Divisional Canal-officer, stating—

(1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;

(2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for procuring such transfer;

(3) that he is able to defray the cost of such transfer.

Procedure thereupon.

If the Divisional Canal-officer considers—

(*a*) that the said transfer is necessary for the better management of the irrigation from such water-course, and

(*b*) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section twenty-eight in respect of such transfer;

and, upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Collector of every district, through which such water-course passes.

Objections to construction or transfer applied for.

24. Within thirty days from the publication of a notice under section twenty-two or section twenty-three, as the case may be, any person interested in the land or water-course to which the notice refers may apply to the Collector by petition, stating his objection to the construction or transfer for which application has been made.

The Collector may either reject the petition or may proceed to enquire into the validity of the objection, giving previous notice to the Divisional Canal-officer of the place and time at which such enquiry will be held.

The Collector shall record in writing all orders passed by him under this section and the grounds thereof.

When applicant may be placed in occupation.

25. If no such objection is made, or (where such objection is made) if the Collector over-rules it, he shall give notice to the Divisional Canal-officer to that effect, and shall proceed forthwith to place the said applicant in occupation of the land marked out or of the water-course to be transferred, as the case may be.

Procedure when objection is held valid.

26. If the Collector considers any objection made as aforesaid to be valid, he shall inform the Divisional Canal-officer accordingly; and, if such officer sees fit, he may, in the case of an application under section twenty-one, alter the boundaries of the land so marked out, and may give fresh notice under section twenty-two; and the procedure hereinbefore provided shall be applicable to such notice, and the Collector shall thereupon proceed as before provided.

Procedure when Canal-officer disagrees with Collector.

27. If the Canal-officer disagrees with the Collector, the matter shall be referred for decision to the Commissioner.

Such decision shall be final, and the Collector, if he is so directed by such decision, shall, subject to the provisions of section twenty-eight, cause the said applicant to be placed in occupation of the land so marked out or of the water-course to be transferred, as the case may be.

Expenses to be paid by applicant before receiving occupation.

28. No such applicant shall be placed in occupation of such land or water-course, until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Procedure in fixing compensation.

In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the Land Acquisition Act, 1870; but he may, if the person to be compensated so desire, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

Recovery of compensation and expenses.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

29. When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest :— Conditions binding on applicant placed in occupation.

First.—All works necessary for the passage across such water-course, of water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal-officer.

Second.—Land occupied for a water-course under the provisions of section twenty-two shall be used only for the purpose of such water-course.

Third.—The proposed water-course shall be completed to the satisfaction of the Divisional Canal-officer within one year after the applicant is placed in occupation of the land.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge,

Fourth, the applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

Fifth.—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such persons as the Collector determines.

Sixth.—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation ; and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

If any of the rules and conditions prescribed by this section are not complied with,

or if any water-course constructed or transferred under this Act is disused for three years continuously,

the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

30. The procedure hereinbefore provided for the occupation of land for the Procedure ap-

plicable to occupation for extensions and alterations

construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

PART IV.—Of the Supply of Water.

In absence of written contract, water-supply to be subject to rules.

31. In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the Local Government in respect thereof.

Conditions as to—

32. Such contracts and rules must be consistent with the following conditions:—

power to stop water-supply;

(*a*). The Divisional Canal-officer may not stop the supply of water to any water-course, or to any person, except in the following cases:—

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the Local Government;

(2) whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom;

(3) within periods fixed from time to time by the Divisional Canal-officer:

claims to compensation in case of failure or stoppage of supply;

(*b*). No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal-officer considers necessary; but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorized by the Local Government:

claims on account of interruption from other causes;

(*c*). If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector may award to the petitioner reasonable compensation for such loss:

duration of supply;

(*d*). When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the com-

mencement of the irrigation, and to apply to such crops only as are matured within that year:

sale or sub-letting of right to use canal-water;

(*e*). Unless with the permission of the Superintending Canal-officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use: Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water-course for the irrigation of the land held by such tenant:

transfer, with land, of contracts for water.

But all contracts made between Government and the owner or occupier of any immoveable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place:

No right acquired by user.

(*f*). No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Limitation Act, 1877,[a] Part IV, nor shall Government be bound to supply any person with water except in accordance with the terms of a contract in writing.

PART V.—Of Water-rates.

Liability when person using unauthorizedly cannot be identified.

33. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified,

the person on whose land such water has flowed if such land has derived benefit therefrom,

or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, to the charges made for such use.

Liability when water runs to waste.

34. If water supplied through a water-course be suffered to run to waste, and if, after enquiry by the Divisional Canal-officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

Charges recoverable in addition to penalties.

35. All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

[a] See Act No. XV of 1877, sec. 2.

Decision of questions under sections 33 and 34.

All questions under section thirty-three or section thirty-four shall be decided by the Divisional Canal-officer, subject to an appeal to the head revenue-officer of the district, or such other appeal as may be provided under section seventy-five.

Charge on occupier for water how determined.

36. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly.

'Occupier's rate.' 'Owner's rate.'

A rate so charged shall be called the 'occupier's rate.'

37. In addition to the occupier's rate, a rate to be called the 'owner's rate' may be imposed, according to rules to be made by the Local Government, on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.[a]

Amount of owner's rate.

38. The owner's rate shall not exceed the sum which, under the rules for the time being in force for the assessment of land-revenue, might be assessed on such land, on account of the increase in the annual value or produce thereof caused by the canal-irrigation. And for the purpose of this section only, land which is permanently settled or held free of revenue, shall be considered as though it were temporarily settled and liable to payment of revenue.[b]

Owner's rate when not chargeable.

39. No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land-revenue at irrigation-rates, during the currency of such assessment.[c]

When occupier is to pay both owner's rate and occupier's rate.

40. If such land is occupied by the owner,

or if it is occupied by a tenant whose rent is not liable to enhancement on the ground that the value of the produce of the land or the productive powers of the land has or have been increased by irrigation,

such owner or tenant shall pay the owner's rate as well as the occupier's rate.

Power to make rules for apportioning owner's rate.

41. In the case of a tenant with a right of occupancy, the Local Government shall have power to make rules for dividing the owner's rate between such tenant and his landlord, proportionately to the extent of the beneficial interest of each in the land.

When owner is to pay owner's rate.

42. If the owner of the land is not the occupier, but has power to enhance the rent of the occupier on the ground that the value of the produce or the productive powers of the land has or have been increased by irrigation;

or if, when the amount of rent was fixed, the land was irrigated from the canal,

the owner shall pay the owner's rate.

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a, b, c See *Panjáb Gazette*, 23rd September, 1875, p. 846.

Effect of introduction of canal-irrigation on landlord's right to enhance.

43. If a revision of settlement is a ground for entertaining a suit for the enhancement of rent, the introduction of canal-irrigation into any land shall have the same effect on the landlord's right to re-enhance the rent of a tenant with a right of occupancy of such land, as if a revision of settlement had taken place, under which the revenue payable in respect of such land had been increased.

Water-rate by whom payable when charged on land held by several owners.

44. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land, and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

Recovery of Charges.

Certified dues recoverable as land-revenue.

45. Any sum, lawfully due under this Part, and certified by the Divisional Canal-officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land-revenue.

Power to contract for collection of canal-dues.

46. The Divisional Canal-officer or the Collector may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person makes default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Collector under section forty-five; and if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the Collector from such third party.

Lambardárs may be required to collect canal-dues.

47. The Collector may require the lambardár or person under engagement to pay the land-revenue of any estate, to collect and pay any sums payable under this Act by a third party, in respect of any land or water in such estate.

Such sums shall be recoverable by the Collector as if they were arrears of land-revenue due in respect of the defaulter's share in such estate;

and for the purpose of collecting such sums from the subordinate zamíndárs, raiyats or tenants, such lambardár or person may exercise the powers, and shall be subject to the rules, laid down in the law for the time being in force in respect to the collection by him of the rents of land or of shares of land-revenue.

The Local Government shall provide

(*a*) for remunerating persons collecting sums under this section; or

(*b*) for indemnifying them against expenses properly incurred by them in such collection; or

(*c*) for both such purposes.

Fines excluded from sections 45, 46, 47.

48. Nothing in sections forty-five, forty-six or forty-seven applies to fines.

PART VI.—Of Canal-navigation.

Detainer of vessels violating rules.

49. Any vessel entering or navigating any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained, or both removed and detained, by the Divisional Canal-officer, or by any other person duly authorized in this behalf.

Liability of owners of vessels causing damage.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal-officer, with the approval of the Superintending Canal-officer, determines to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

Recovery of fines for offences in navigating canals.

50. Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, or, if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel.

Power to seize and detain vessel on failure to pay charges.

51. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal-officer may seize and detain such vessel and the furniture thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to seize cargo or goods, if charges due thereon are not paid.

52. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, is not paid on demand to the person authorised to collect the same, the Divisional Canal-officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Procedure for recovery of such

53. Within a reasonable time after any seizure under section fifty-one or section fifty-two, the said Canal-officer shall give notice to the owner or person

in charge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named. charges after seizure.

And if such claim be not so discharged, the said Canal-officer may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale:

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo or goods.

The residue of such furniture, cargo or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

54. If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, be left unclaimed for a period of two months, the Divisional Canal-officer may take possession of the same. Procedure in respect of vessels abandoned and goods unclaimed.

The officer so taking possession may publish a notice that, if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel, contents, cargo or goods be not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Divisional Canal-officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal-officer. Disposal of proceeds of sale.

If the Divisional Canal-officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid, and the proceeds to be paid into the district-treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

PART VII.—Of Drainage.

55. Whenever it appears to the Local Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage-channel, such Government may, Power to prohibit obstructions or order their removal.

by notification published in the official Gazette, prohibit, within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other modification of such obstruction.[a]

Thereupon so much of the said river, stream or drainage-channel as is comprised within such limits, shall be held to be a drainage work as defined in section three.

Power to remove obstructions after prohibition.

56. The Divisional Canal-officer, or other person authorized by the Local Government in that behalf, may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

If, within the time so fixed, such person does not comply with the order, the said Canal-officer may himself remove or modify the obstruction; and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

Preparation of schemes for works of improvement.

57. Whenever it appears to the Local Government that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof,

or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,

the Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

Powers of persons employed on such schemes.

58. The persons authorized by the Local Government to draw up such scheme may exercise all or any of the powers conferred on Canal-officers by section fourteen.

Rate on lands benefited by works.

59. An annual rate, in respect of such scheme, may be charged, according to rules to be made by the Local Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits:—

(1.) Six per cent. per annum on the first cost of the said works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate:

[a] See *Panjáb Gazette*, 25th March, 1875, p. 98.

(2.) In the case of agricultural land, the sum which, under the rules then in force for the assessment of land-revenue, might be assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage-work.

Such rate may be varied from time to time, within such maximum, by the Local Government.

So far as any defect to be remedied is due to any canal, water-course, road or other work or obstruction, constructed or caused by the Local Government or by any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect shall be borne by such Government or such person as the case may be.

Recovery of rate.

60. Any such drainage-rate may be collected and recovered in manner provided by sections forty-five, forty-six and forty-seven, for the collection and recovery of water-rates.

Disposal of claims to compensation.

61. Whenever, in pursuance of a notification made under section fifty-five, any obstruction is removed or modified,

or whenever any drainage-work is carried out under section fifty-seven,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work, may be made before the Collector, and he shall deal with the same in the manner provided in section ten.

Limitation of such claims.

62. No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

PART VIII.—Of obtaining Labour for Canals and Drainage-works.

Definition of 'Labourer.'

63. For the purposes referred to in this Part, the word 'Labourer' includes persons who exercise any handicraft specified in rules to be made in that behalf by the Local Government.

Power to prescribe number of labourers to be supplied by persons benefited by canal.

64. In any district in which a canal or drainage-work is constructed, maintained or projected by Government, the Local Government may, if it thinks fit, direct the Collector

(*a*) to ascertain the proprietors, sub-proprietors or farmers whose villages or estates are or will be, in the judgment of the Collector, benefited by such canal or drainage-work, and

(*b*) to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub-proprietors or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or

severally, from any such village or estate, for employment on any such canal or drainage-work when required as hereinafter provided.

The Collector may, from time to time, add to or alter such list or any part thereof.

Procedure for obtaining labour for works urgently required.

65. Whenever it appears to a Divisional Canal-officer duly authorized by the Local Government, that, unless some work is immediately executed, such serious damage will happen to any canal or drainage-work as to cause sudden and extensive public injury,

and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury,

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer seem necessary for the immediate execution of such work.

Every requisition so made shall be in writing, and shall state

(*a*) the nature and locality of the work to be done,

(*b*) the number of labourers to be supplied by the person upon whom the requisition is made, and

(*c*) the approximate time for which and the day on which the labourers will be required ;

and a copy thereof shall be immediately sent to the Superintending Canal-officer for the information of the Local Government.

The Local Government shall fix, and may from time to time alter, the rates to be paid to any such labourers : provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation.

The Local Government may, with the previous sanction of the Governor General in Council, direct that the provisions of this Part shall apply, either permanently or temporarily (as the case may be), to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

Liability of labourers under requisition.

66. When any requisition has been made on any person named in the said list, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid.

PART IX.—Of Jurisdiction.

Jurisdiction under this Act of civil Courts.

67. Except where herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the civil Courts; but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order.

Settlement of differences as to mutual rights and liabilities of persons interested in water-course.

68. Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, any such person may apply in writing to the Divisional Canal-officer stating the matter in dispute. Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter. And, after such enquiry, he shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon enquire into and pass his order on the said matter.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a civil Court.

Power to summon and examine witnesses.

69. Any officer empowered under this Act to conduct any enquiry may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on civil Courts by the Code of Civil Procedure; and every such enquiry shall be deemed a judicial proceeding.

PART X.—Of Offences and Penalties.

Offences under Act.

70. Whoever, without proper authority and voluntarily, does any of the acts following, that is to say,—

(1) damages, alters, enlarges or obstructs any canal or drainage-work;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work;

(3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work;

(4) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner;

(5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(6) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the Local Government for entering or navigating such canal;

(7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon;

(8) being liable to furnish labourers under Part VIII of this Act, fails, without reasonable cause, to supply or to assist in supplying the labourers required of him;

(9) being a labourer liable to supply his labour under Part VIII of this Act, neglects, without reasonable cause, so to supply, and to continue to supply, his labour;

(10) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant;

(11) passes, or causes animals or vehicles to pass, on or across any of the works, banks or channels of a canal or drainage-work contrary to rules made under this Act, after he has been desired to desist therefrom;

(12) violates any rule made under this Act, for breach whereof a penalty may be incurred,

Penalty.

shall be liable, on conviction before a Magistrate of such class as the Local Government directs in this behalf,[a] to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

Saving of prosecution under other laws.

71. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

Compensation to person injured.

72. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

Power to arrest without warrant.

73. Any person in charge of or employed upon any canal or drainage-work, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who within his view, commits any of the following offences:

(1) wilfully damages or obstructs any canal or drainage-work;

(2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work.

Definition of "Canal."

74. In this Part the word 'Canal' shall (unless there be something repug-

[a] Magistrates of the third class, *Panjáb Gazette*, 26th June, 1873, p. 365.

nant in the subject or context) be deemed to include also all lands occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce, occupied by or belonging to Government, upon such lands.

PART XI.—Of Subsidiary Rules.

Power to make, alter and cancel rules.

75. The Local Government may, from time to time with the previous sanction of the Governor General in Council, make rules to regulate the following matters:—

(1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(3) the persons by whom, the time, place or manner at or in which, anything for the doing of which provision is made under this Act, shall be done;

(4) the amount of any charge made under this Act;

(5) and generally to carry out the provisions of this Act.

The Local Government may from time to time, with the like sanction, alter or cancel any rules so made.

Publication of rules.

Such rules, alterations and cancelments shall be published in the local official Gazette, and shall thereupon have the force of law.

THE EUROPEAN BRITISH MINORS ACT, 1874.

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ACT No. XIII of 1874.

Received the Governor General's assent on the 8th of December 1874.

An Act to provide in the Panjáb and elsewhere for the guardianship of European British Minors.

Preamble.

WHEREAS it is expedient to provide in the Panjáb, Oudh, the Central Provinces, British Burma, Coorg, Ajmer and Mairwára and Assam for the guardianship of minors who either are born in the United Kingdom or any British colony, or are the children or grandchildren of persons so born; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called "The European British Minors Act, 1874:"

Local extent.

It extends to the territories respectively subject to the government of the Lieutenant-Governor of the Panjáb and to the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg, Ajmer and Mairwára and Assam;

Personal application.

So far as relates to minors, it applies only to persons born in the United Kingdom of Great Britain and Ireland, or any British colony, plantation or settlement other than British India, and to their children and grandchildren;

Commencement.

And it shall come into force at once.

Interpretation-clause.

2. In this Act—

'Minor.'

'Minor' means a person who has not completed the age of eighteen years:

'Guardian.'

'Guardian' means a person who is appointed to take care of a minor's person or property, or both; and

'Court.'

'Court' means the highest civil Court of appeal in any territory (other than British Burma) to which this Act extends.

In British Burma 'Court' means, in the town of Rangoon, the Court of the Recorder of Rangoon, and, elsewhere, the Court of the Deputy Commissioner.

PART II.

APPOINTMENT OF GUARDIANS.

Appointment by parent.

3. A guardian of the person or property, or both, of any minor may be appointed by will or other instrument to take effect upon the death of the parent appointing—

(*a*) if the minor is legitimate, by the father, or by either parent if the other is dead or incapable of acting;

(*b*) if the minor is illegitimate, by the mother.

Appointment by Court.

4. If the Court within the local limits of whose jurisdiction any minor resides finds that the guardianship of his person or property has not been sufficiently provided for under section three, the Court may appoint a guardian of his person or property, or both, as the case may be.

If the minor has several properties, the Court may, if it think fit, appoint a guardian for each such property.

If the Court appoints a guardian for any property situate beyond the local limits of its jurisdiction, the Court within the local limits of whose jurisdiction such property may be situate shall accept such guardian as duly appointed and give effect to the order appointing him.

Application for appointment.

5. Whoever desires to be appointed the guardian of a minor's person or property, or both, may apply to the Court within the local limits of whose jurisdiction the minor resides by petition setting forth the grounds of his application, and showing—

(*a*) the minor's age and residence;

(*b*) the nature and amount of his property;

(*c*) what relatives he has in India or elsewhere, and

(*d*) the qualifications of the proposed guardian and his willingness to act as such.

Stamp. Verification.

The petition shall bear a stamp of five rupees, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints, and may at the hearing be referred to as evidence.

Notice of application.

The Court, if satisfied that there is ground for proceeding, shall give notice of the application to the person (if any) named in the petition as having the custody or being in possession of the person or property of such minor, as well as to any other person whom the Court may think should receive such notice, and shall fix as early a day as may be convenient for the hearing of the petition.

Production of minor.

6. The Court may direct that the person (if any) having the custody of such minor shall produce him at such place and time as may be appointed by the Court, and may make such order for the temporary custody and protection of the minor's person or property as may appear proper.

Evidence of fitness.

7. On the day fixed for the hearing of the petition or as soon after as may be practicable, the petitioner shall adduce evidence to show the fitness of the proposed guardian;

and the Court shall make such order as it thinks fit in respect to the guardianship of the minor's person or property, or both, and the costs of the case.

Procedure.

8. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in the Code of Civil Procedure in so far as the same is applicable; and any order made by the Court under section six or section seven may be enforced as if such order had been made in a regular suit or on appeal; and all orders made under this Act by Deputy Commissioners in British Burma shall be appealable as if they were decrees.

Forms.

The forms set forth in the schedule hereto annexed, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in such schedule.

Subsidiary rules.

And the Court may from time to time prescribe rules consistent with this Act for regulating the procedure hereunder:

Provided that, in the case of Courts of Deputy Commissioners in British Burma, such rules shall be prescribed by the Judicial Commissioner.

Orders under Act not to be contested.

9. Save as provided by section eight, no order passed under this Act in respect to the guardianship of a minor's person or property shall be liable to be contested in any other proceeding.

Rules for awarding custody of minor.

10. In appointing the guardian of a minor, the Court shall be guided by the following considerations:—

(*a.*)—By what appears to be for the best interest of the minor in respect to his temporal and his mental and moral welfare; and if the minor is old enough to form an intelligent preference, the Court may consider that preference:

(*b.*)—As between parents adversely claiming the custody or guardianship, neither parent is entitled to it as of right; but if, other things being equal, the minor is of tender years, he should be given to the mother: if he is of an age to require education and preparation for labour and business, then to the father:

(*c.*)—The Court shall also consider the following circumstances according as they may bear upon the guardianship of person or of property:—

(1.)—Nearness of relationship;

(2.)—The wishes of a deceased parent;

(3.)—Any existing or previous connection of the proposed guardian with the minor's person or property.

PART III.

GUARDIANS' DUTIES, RIGHTS AND LIABILITIES.

A.—Guardians of the Person.

Duties of guardian of the person.

11. A guardian of the person is charged with the custody of the ward, and must look to his support, health and education.

Ward's religion.

12. A ward is presumed to be of his father's religion; and the guardian, in the absence of the Court's direction to the contrary, must train the ward in such religion. If the ward is old enough to form an intelligent preference for any religion, the Court, in giving such direction, shall attend to such preference.

Guardian entitled to custody of ward.

13. Any ward who may desert his home may be compelled by order of the Court to return. But such order may be withheld by the Court if it appear—

(*a*) that the ward has been subjected to maltreatment at the hands of his guardian;

(*b*) that the conduct of the guardian in other respects renders him unfit for the office, or

(*c*) that the ward is on reasonable grounds unwilling to return and is old enough to form an intelligent preference on such a subject.

Removal of ward from jurisdiction.

14. No guardian of the person appointed by the Court shall, without the leave of the Court, remove its ward from the limits of its jurisdiction.

Any person wilfully contravening this prohibition shall be liable by order of the Court to fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

B.—Guardians of Property.

Duties of guardian of property.

15. A guardian of the property shall keep safely the property of his ward.

Prohibition of waste.

In the case of immoveable property, he shall not suffer any waste, but shall maintain the buildings (if any) thereon and their appurtenances out of the rents and profits of the property.

Power to lease.

16. The guardian of any immoveable property may make leases for any term not exceeding a year, or from year to year, of such property or any part thereof; and with the sanction of the Court, may make such lease of the property, or any part thereof, for such term of years and subject to such rents and covenants as the Court may direct; but in no such case shall any fine or premium be taken.

The lease shall be settled by an officer of the Court, and a counterpart thereof shall be executed by the lessee, and shall be deposited for safe custody in the Court until the ward completes the age of eighteen years; but all proper parties shall have the use thereof, if necessary, for the purpose of enforcing any covenant therein contained.

Power to use principal for ward's maintenance, &c.

17. The Court may order that the principal of the ward's property, or any part thereof, shall be applied for his maintenance, education or advancement, and the guardian of such property shall obey such order.

Rules as to guardians of property.

18. Every guardian of the property of a minor shall

(*a*) give such security, if any, as the Court thinks fit duly to account for what he shall receive in respect of the minor's property;

(*b*) pass his accounts at such periods and in such form as the Court directs;

(*c*) pay the balance due from him thereon;

(*d*) be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties;

(*e*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

C.—As to all Guardians.

Minor guardians incompetent to act.

19. No person appointed a guardian shall be competent to act as such unless he has completed the age of eighteen years.

Guardian under control of Court.

20. Every guardian, whether appointed by a parent or under this Act by a Court, is subject to the control of the Court within the local limits of whose jurisdiction he resides.

Death of joint guardian.

21. On the death of one of two or more joint guardians, whether appointed by a parent or under this Act, the power continues to the survivor or survivors until a further appointment is made by the Court.

Removal of guardian.

22. A guardian may be removed by the Court for any of the following causes:—

(*a*) for abuse of his trust;

(*b*) for continued failure to perform its duties;

(*c*) for incapacity to perform its duties;

(*d*) for gross immorality;

(*e*) for having an interest adverse to the faithful performance of his duties;

(*f*) for removal from the local limits of the jurisdiction of the Court;

(*g*) the arrival within such local limits of some person whose guardianship the Court may think likely to be more beneficial to the minor than the guardianship of the person so removed;

(*h*) in the case of a guardian of the property, for insolvency.

Appointment of successor.

In any such case the Court may appoint a successor to the guardian so removed.

Resignation of guardian.

23. Any guardian, whether appointed by a parent or by the Court, desiring to resign his office, may apply to the Court to discharge him,

and if the Court finds that there is some other proper person whom it may appoint to such guardianship, it shall discharge the guardian accordingly and appoint such other proper person in his place.

Application for appointment on guardian's removal or resignation.

24. Applications for appointments under section twenty-two or section twenty-three shall be made in manner provided in section five; and the procedure thereon shall be in accordance with section seven.

Close of authority of guardian.

25. The power of a guardian of the person ceases—

(*a*) by his removal or discharge;

(*b*) by the ward's attaining majority, and,

(*c*) in the case of a female ward, by her marriage followed by cohabitation.

The power of a guardian of the property ceases—

(*a*) by his removal or discharge;

(*b*) by the ward's attaining majority.

SCHEDULE.

I.—Petition for Appointment of Guardian.

(*See section 5.*)

In the Chief Court of the Panjáb [*or* In the Court of the Recorder of Rangoon, *or as the case may be*].

In the matter of *A. B.*, a minor, by *C. D.*, his next friend.

To Mr. Justice (*or as the case may be*).

The petition of *C. D.* of

Sheweth—

1. The said *A. B.* is now of the age of years and upwards. He is the same person as '*A*, son of *C.* and *L. B.*,' named in the paper-writing now produced and shown to me and marked A, and purporting to be a copy under the seal of the General Register Office of the entry No. in the certified copy of entries of births in the district of *D.* in the county of *L*, for the year 187

2. The said *A. B.* is absolutely entitled, under the will of *his maternal uncle E. F.*, late of (*residence and addition*), to the following properties (namely):—

(*a*) a house in let to *N. O.* as yearly tenant at Rs. 1,000 a year.

(*b*) Rs. 20,000 in the four per cent. securities of the Government of India, standing in the names of *R. S.* and *T. W.*, the trustees of the will of the said *E. F.*

(*c*) Rs. 800 cash in the hands of the said *R. S.* and *T. W.*, arisen from dividends on the said stock.

3. The only relations of the said *A. B.* now living are—(*a*), your petitioner, his maternal uncle; (*b*)—*S. H.*, wife of *T. H.* of (*residence and addition*), the

half-sister of the said *A. B.*, and (*c*)—*R. D. V.*, the half-brother of the said *A. B.*, who is a Captain in Her Majesty's Army, and now stationed at Bombay.

4. The said *A. B.* was, at the time of the death of his father, *C. B.*, which happened on the 187 , and is now, residing as a scholar at Bishop Cotton's School, Simla, in the custody of the Rev. *M. N.*, the headmaster.

5. Your petitioner [*here state his qualifications as guardian, e. g., that he has attained his majority, is married, has children, resides with his family at some reasonably healthy place, mentioning it, holds a responsible office, stating it*], and is willing to act as the guardian of the person and property [*or as may be*] of the said *A. B.* during his minority in case this Hon'ble Court shall think fit to appoint me to that office.

Your petitioner therefore prays this Hon'ble Court—

1. That your petitioner or some other proper person may, upon giving security, be appointed the guardian of the person and property of the said *A. B.* during his minority, or until further order.

2. And that the said *C. D.* or other such guardian may from time to time pass his accounts and pay the balances which shall be certified to be due from him into the Government-treasury to the credit of this matter, and that such balances may be laid out in securities of the Government of India, or in loans or bonds secured by the Imperial Parliament on the revenues of India, or in debentures of railways guaranteed by the Government of India, and the interest to accrue thereon and all accumulations of interest be laid out in like manner.

3. And that the costs of this petition may be taxed as between attorney and client; and that the said *C. D.* or other such guardian may retain and pay the same out of any monies of the said minor which may come to his hands and be allowed the same on passing his said accounts.

(*Signed*) *C. D.*

Form of Verification.

(*See section 5.*)

I, *C. D.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

II.—Affidavit of Fitness of Guardian.

(*See section 7.*)

In the Chief Court, &c., (*or as the case may be*).

In the matter of *A. B.*, a minor, by *C. D.*, his next friend.

I, *E. F.*, of (*residence and addition*), make oath and say as follows:—

1. I know and have for years past been well acquainted with *C. D.*, the petitioner in this matter.

2. The said *C. D.* is married and has children, namely, a son of the age of years and daughters of the respective ages of and years.

3. The said *C. D.* resides with his wife and children at

4. In my judgment and belief the said *C. D.* is a fit and proper person to be appointed guardian of the person and property of his nephew, the said minor *A. B.*, for the following reasons (*state them*) :—

Sworn at , this day of 187 , before me

E. F.

(*Official character and description of E. F.*)

III.—Recognizance by a Guardian of Property and his Surety, after an Order appointing him subject to his giving Security.

Stamp as in case of a bond.

(*Short title.*)

The senior Judge of the Chief Court of the Punjab [*or as the case may be*] has approved of and allowed this recognizance.

X. Y.,
Registrar.

C. D. (*the principal*), of (*residence and addition*), and *L. M.* (*the surety*) acknowledge themselves and each of them acknowledges himself to owe to the Secretary of State for India in Council the sum of Rs. [*to be regulated by the sum which the guardian is likely to receive during the currency of his periodical account*] to be paid to the said Secretary of State for India in Council; and unless they pay the same, they, the said *C. D.* and *L. M.*, do and each of them doth grant for himself, his executors and administrators, that the said sum shall be levied and received from them and each of them and from their and his moveable and immoveable property.

Dated the day of 187 .

WHEREAS, by an order of the Court of , made by (*name the Judge*), in a certain matter there depending, intituled 'In the matter of ' [*Recite the order appointing the guardian, subject to his giving security, and continue thus*] :—

And whereas (*name the Judge who has approved of the surety and recognizance*) has approved of the above-bounden *L. M.* as surety for the said *C. D.*, and hath also approved of the above-written recognizance with the underwritten condition as a proper security to be entered into by the said *C. D.* and *L. M.* pursuant to the said order, and in testimony of the said approbation, the

Registrar [*or as the case may be*] of the said Court hath signed an allowance in the margin thereof.

Now the condition of the above-written recognizance is such, that if the said *C. D.* shall duly account for every sum of money which he shall receive on account of the property of the said minor *A. B.* and the rents and profits and other income thereof, at such periods as the said Judge shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court or Judge hath directed, or shall hereafter direct, then the above recognizance shall be void, otherwise the same shall remain in force.

C. D. } Taken and acknowledged by the above-named *C. D.* and *L. M.*,
L. M. } at in this day of 187 before me

(*Signature and style of office of the officer by whom the recognizance is taken*).

ACT No. XIV OF 1875.

Received the Governor General's assent on the 1st of July 1875.

An Act to amend the law relating to certain Courts and Offices in the Panjáb.

Preamble. WHEREAS it is expedient to amend the law relating to certain Courts and Offices in the Panjáb; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Panjáb Judicial Administration Act, 1875:"

Local extent. It extends to all the territories for the time being under the government of the Lieutenant-Governor of the Panjáb;

Commencement. And it shall come into force on the passing thereof.

Repeal of Act XIX of 1865, s. 20. 2. Section twenty of the Panjáb Courts Act, 1865,[a] is repealed in so far as it relates to the powers of a Deputy Commissioner.

The Local Government may confer powers— 3. All or any of the powers conferred by, or conferrible under, the said Act, or by or under any other enactment for the time being in force,

of a tahsíldár, (*a*) on a tahsíldár, or

of a Deputy Commissioner. (*b*) on a Deputy Commissioner as such or as a principal civil Court of original jurisdiction,

may be conferred by the Local Government on any person they think fit.

Such powers where and in what cases to be exercised. 4. Any person invested with powers under section three shall exercise such powers in such district or districts, or in such portion of a district, as the Local Government may from time to time appoint in this behalf, and in such

[a] Repealed by Act No. XVII of 1877.

cases or classes of cases as the Deputy Commissioner of the district may from time to time, subject to any rules prescribed in this behalf by the Local Government, by general or special order direct.

Persons exercising such powers to be deemed to be tahsíldárs or Deputy Commissioners.

5. Any person exercising any of the said powers shall, for the purposes of the law relating to appeals and for all other purposes connected with the exercise of such powers, be deemed to be a tahsíldár or Deputy Commissioner, as the case may be.

ACT No. XV of 1875.

Received the Governor General's assent on the 15th of July 1875.

An Act to amend the Panjáb Laws Act, 1872.

Preamble.

WHEREAS, in order to provide for the establishment of Rural Police and for the more efficient administration of law in the Panjáb, it is expedient to amend the Panjáb Laws Act, 1872; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Panjáb Laws Amendment Act, 1875:"

Local extent.

It extends to the territories for the time being under the government of the Lieutenant-Governor of the Panjáb;

Commencement.

And it shall come into force at once.

Addition to Act IV of 1872.

2. The said Panjáb Laws Act, 1872, shall be read as if the following sections were inserted next after section thirty-nine thereof:—

[*Vide supra, p.* 131.]

Substitution of new section for section 50.

3. Section fifty of the said Panjáb Laws Act is repealed, and in lieu thereof there shall be read the following:—

[*Vide supra, p.* 135.]

ACT No. IX of 1877.

Received the Governor General's assent on the 28th of March 1877.

An Act to revive and amend Act No. XXIII of 1867.

Preamble.

WHEREAS Act No. XXIII of 1867 (*for the suppression of murderous outrages in certain districts of the Panjáb*) received the assent of the Governor General on the 18th day of March 1867, and by section 17 of the said Act was limited to expire in ten years from the date of passing it; And whereas it is expedient to revive the same Act and to amend it in manner hereinafter appearing; It is hereby enacted as follows:—

Act XXIII of 1867 to be revived.

1. The said Act shall be revived and shall remain in force until the Governor General in Council otherwise directs.

Amendment of Act XXIII of 1867

2. For the word "Commissioner" wherever it occurs in the said Act, the words "Sessions Judge or Commissioner" shall be substituted.

THE PANJAB COURTS ACT, 1877.

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ACT No. XVII of 1877.

Received the Governor General's assent on the 17th of October 1877.

An Act to consolidate and amend the law relating to Courts in the Panjáb.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts in the Panjáb; and whereas the Secretary of State for India in Council has given his previous sanction to the passing of this Act; It is hereby enacted as follows :—

CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be called "The Panjáb Courts Act, 1877:"

Local extent.

It extends to all the territories for the time being under the administration of the Lieutenant-Governor of the Panjáb;

Commencement.

And it shall come into force on the passing thereof.

Repeal of Acts.

2. The Acts mentioned in the schedule hereto annexed are repealed.

But all Courts constituted, appointments made, rules and forms prescribed, orders, directions and licenses issued and powers conferred under any of the said Acts, shall, as far as may be, be deemed to have been respectively constituted, made, prescribed, issued and conferred under this Act.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context, "Assistant Commissioner" includes Extra Assistant Commissioner, and "Tahsíldár" includes Munsif.

CHAPTER II.—OF THE CONSTITUTION OF THE COURTS.

Grades of Courts.

4. Besides the Courts established under any other enactment for the time being in force, there shall be eight grades of Courts (namely) :—

(1) the Chief Court;
(2) the Court of the Commissioner;
(3) the Court of the Deputy Commissioner;
(4) the Court of the Assistant Commissioner with full powers;
(5) the Court of the Assistant Commissioner with special powers;
(6) the Court of the Assistant Commissioner with ordinary powers;
(7) the Court of the Tahsíldár with special powers; and
(8) the Court of the Tahsíldár with ordinary powers.

Constitution of Chief Court and appointment and tenure of Judges.

5. The Chief Court shall consist of three or more Judges, who shall be appointed by the Governor General in Council, and shall hold their offices during his pleasure, and of whom one at least shall always be a barrister of not less than five years' standing.

Rank and precedence of Judges of Chief Court.

6. The Judges of the Chief Court shall have rank and precedence according to the seniority of their appointments as such Judges:

Provided that a Judge permanently appointed shall be deemed senior to an officiating Judge.

Certain powers to be exercised *ex officio*.

7. Every person appointed by the Local Government to be or to act as a Commissioner, Deputy Commissioner, Assistant Commissioner or Tahsíldár shall, in the division, district or tahsíl to which he may from time to time be posted, have the powers of a Court of a Commissioner, a Deputy Commissioner, an Assistant Commissioner with ordinary powers, or a Tahsíldár with ordinary powers, as the case may be.

Assistant Commissioner or Tahsíldár may be invested with higher powers.

8. The Local Government may from time to time confer upon any Assistant Commissioner the powers of an Assistant Commissioner with full powers, or of an Assistant Commissioner with special powers, or upon any Tahsíldár the powers of a Tahsíldár with special powers, and may withdraw any powers so conferred.

Any Assistant Commissioner or Tahsíldár invested with powers under this section may exercise such powers in any district or tahsíl, as the case may be, to which he may from time to time be posted.

Any person may be invested with certain powers.

9. The Local Government may from time to time confer upon any person all or any of the powers of a Court of any of the seven grades last mentioned in section four, and may withdraw any powers so conferred.

Exercise of such powers by benches.

10. The Local Government may direct that any three persons invested with powers of the same description under section nine, shall exercise such powers sitting together as a bench and not otherwise.

When such persons sit together as a bench, the decision of the majority of them shall be deemed to be the decision of the bench.

Persons and benches exercising such powers to be deemed Courts of corresponding grades.

11. Except for the purposes of exercising control over any other Court, any person or any bench exercising the powers of a Court of any grade under section nine or section ten shall be deemed to be a Court of such grade for all the purposes of this Act.

Such powers where and in what cases to be exercised.

12. Any person or bench invested under section eight, nine or ten with the powers of a Court of any grade, shall exercise such powers and discharge the functions of such Court within such local limits, and in such classes of cases, as the Local Government may from time to time direct.

Power to alter

13. The Local Government may from time to time, by notification in the

official Gazette, fix the local limits of the jurisdiction of any Court of any of the seven grades last mentioned in section four. Local limits of jurisdiction.

CHAPTER III.—Of the Jurisdiction and Powers of the Chief Court.

14. The Chief Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends. Civil appeals from subordinate Courts.

15. The Chief Court shall be the highest Court of criminal appeal or revision in the said territories, and shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial. Criminal appellate and revisional jurisdiction. Power to try European British subjects.

16. The Chief Court may, either of its own motion or on the application of any of the parties, after giving notice to the parties and hearing such of them as desire to be heard, withdraw any suit or other civil proceeding instituted in any Court under its superintendence or control, and try or dispose of such suit or proceeding itself, or transfer the same for trial or disposal to any other Court under its superintendence or control and competent to try or dispose of such suit or proceeding in respect of its nature and the amount or value of its subject-matter. Power to withdraw and try or to transfer suits.

17. Except as otherwise provided by any law for the time being in force, an appeal shall lie from any decree or order passed or made by the Chief Court— Appeals from original jurisdiction of Chief Court.

(*a*) in exercise of the original jurisdiction conferred by section sixteen; or

(*b*) in exercise of any other original jurisdiction of a civil nature to which the Chief Court may by rule extend this section:

Provided that such appeal shall lie only in the cases and in manner following (that is to say):—

(*c*) when such decree or order is made by a single Judge, an appeal shall lie, either to a bench consisting of two other Judges, or to the full bench, as the Court may, by general rule or special order from time to time, direct;

(*d*) when such decree or order is made by a bench of Judges not being the full bench, and such Judges differ in opinion, the appeal shall lie from such decree or order to the full bench.

18. In the Indian Limitation Act, 1877, Schedule II, Nos. 151 and 162, after the words "Bombay," the following words shall be inserted (namely): "or the Chief Court of the Panjáb." Limitation of such appeals.

Delegation of powers to its members.

19. Except as herein or by any other enactment for the time being in force otherwise provided, the Chief Court may make rules to provide in such manner as it thinks fit for the exercise by one or more of its Judges of any powers conferred on it by this Act, or by any other enactment for the time being in force:

Proviso.

Provided that no decree, order, sentence or decision of any Court shall be reversed by any Judge of the Chief Court sitting alone.

Rule of decision when Judges differ.

20. When there is a difference of opinion among the Judges composing any bench of the Chief Court on any question arising before such Judges in the exercise by them of any powers conferred on such Court by this Act, or by any other enactment for the time being in force, such question shall, except as otherwise provided by any enactment for the time being in force, be decided as follows, that is to say:—

If the number of such Judges concurring in one opinion upon such question is larger than the number holding any other opinion upon such question, the decision shall be in accordance with the opinion of such larger number.

If the numbers of such Judges holding two or more opinions on such question are equal, the following rules shall be observed, that is to say:—

(*a*) if such bench is the full bench, or is exercising any original jurisdiction to which section seventeen applies or is extended, the decision upon such question shall be in accordance with such one of these opinions as is held by the Judge who has precedence under section six;

(*b*) in other cases the bench before which such question has arisen shall refer the same to the full bench, and the full bench shall decide the same in accordance with the rules hereinbefore contained, and the case in which such question has arisen shall be disposed of by the bench referring such question in accordance with the decision of the full bench thereon.

Power to refer question to full bench.

21. Any single Judge of the Chief Court or any bench of Judges of such Court (not being the full bench) exercising any powers conferred on the Chief Court by this Act or by any other enactment for the time being in force, may refer for the decision of the full bench any question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence, arising before such Judge or bench of Judges.

Any Judge or bench making a reference on any question in any case under this section, shall dispose of such case in accordance with the decision of the full bench on such question.

Power to appoint

22. The Chief Court may from time to time appoint a Registrar and Deputy Registrar and such other ministerial officers as may be necessary for

the administration of justice by such Court and for the exercise and performance of the powers and duties conferred and imposed on it by this Act. ministerial officers.

The appointment of the Registrar shall be subject to the sanction of the Local Government.

23. The officers so appointed shall exercise such powers and discharge such duties of a ministerial nature as the Chief Court may from time to time direct. Powers and duties of such officers.

24. Any such officer may be suspended or dismissed from his office by order of the Chief Court: Provided that neither the Registrar nor the Deputy Registrar shall be dismissed without the previous sanction of the Local Government. Suspension and dismissal of such officers.

25. The general superintendence and control over all Courts of the seven grades last mentioned in section four and over all Courts of Small Causes shall be vested in, and such Courts shall be subordinate to, the Chief Court. Superintendence and control of subordinate Courts.

26. The Chief Court may from time to time make rules— Power to make rules as to petition-writers.

(*a*) declaring what persons shall be permitted to practise as petition-writers in the Courts of the Panjáb;

(*b*) regulating the conduct of persons so practising.

Whoever breaks any rule made under this section and having the force of law shall be liable, on conviction before a Magistrate, to a fine which may extend to fifty rupees.

27. The Chief Court may from time to time— Power to make rules as to other matters.

(*a*) make rules consistent with this Act conferring and imposing on the ministerial officers of the Courts subject to its superintendence, such powers and duties of a ministerial nature as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed;

(*b*) make rules consistent with this Act to determine in what cases pleaders practising in such Courts shall be permitted to address such Courts in English;

(*c*) prescribe forms of seals to be used by such Courts;

(*d*) prescribe forms for such books, entries, statistics and accounts as it thinks necessary should be kept, made or compiled in such Courts or submitted to any authority;

(*e*) make rules consistent with this Act, providing for the inspection of such Courts and the supervision of the working thereof;

(*f*) make such rules consistent with this Act, institute such enquiries and submit such recommendations to the Local Government as it may think fit, with a view to promoting the efficiency of the judicial and ministerial

officers of such Courts and maintaining proper discipline among such officers.

Registers, books, accounts and statements to be kept and furnished by Chief Court.

28. The Chief Court shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Court, and shall submit to the Local Government such of the same registers, books and accounts, and statements of the work done in the Court, as may from time to time be required by the said Government.

The Chief Court shall also comply with such requisitions as may from time to time be made by the Governor General in Council or by the Local Government for certified copies of, or extracts from, the records of the Court.

Chief Court to be deemed a High Court within Act X of 1877, sections 633 and 637.

29. The Chief Court shall be deemed to be a High Court within the meaning of the Code of Civil Procedure, sections 633 and 637.

CHAPTER IV.—Of the Jurisdiction and Powers of the subordinate Civil Courts.

Controlling powers of Commissioners and Deputy Commissioners.

30. Subject to the general superintendence and control of the Chief Court,—

every Commissioner shall control (*a*) the Courts of all Deputy Commissioners, (*b*) the Courts of all persons invested under section nine with the powers of a Commissioner within his division, and (*c*) the Courts controlled by the Deputy Commissioners within his division, and

subject to the control of the Commissioner, every Deputy Commissioner shall control (*a*) all Courts of the five grades last mentioned in section four and all Courts of Small Causes, and (*b*) all Courts of persons invested under section nine with the powers of a Deputy Commissioner within his district.

Principal Court of original jurisdiction.

31. Except as otherwise provided by any enactment for the time being in force, the Court of the Deputy Commissioner of a district shall be deemed to be the District Court or principal Civil Court of original jurisdiction in such district.

32. Except as otherwise provided by any enactment for the time being in force,

No pecuniary limits to jurisdiction of Deputy Commissioner.

(*a*) the Court of the Deputy Commissioner shall have jurisdiction for the adjudication of original civil suits without limit as regards the amount or value of the subject-matter of such suits, and

Pecuniary limits of

(*b*) each of the Courts mentioned in the first column of the subjoined table shall have jurisdiction for the adjudication of such suits when such amount or

value does not exceed the limit prescribed for such Court in the second column of the said table : Jurisdiction of other Courts.

Court.	Limit of jurisdiction.
	Rs.
(*a*) The Court of the Assistant Commissioner with full powers ...	10,000
(*b*) The Court of the Assistant Commissioner with special powers	500
(*c*) The Court of the Assistant Commissioner with ordinary powers	100
(*d*) The Court of the Tahsíldár with special powers	300
(*e*) The Court of the Tahsíldár with ordinary powers ...	50

33. Any Commissioner or Deputy Commissioner may exercise, as regards the Courts under his control, the same powers of withdrawal, trial, disposal and transfer as are conferred by section sixteen on the Chief Court. Powers of Courts of Commissioner and Deputy Commissioner.

The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

The Local Government may, from time to time, confer on any Assistant Commissioner the powers of a Deputy Commissioner under this section, and withdraw the same.

34. Notwithstanding anything contained in the Code of Civil Procedure, every Commissioner and Deputy Commissioner may by written order direct that any civil business cognizable by his Court and the Courts under his control (including the execution of decrees) shall be distributed among such Courts in such manner as he thinks fit : Power to distribute business.

Provided that no direction issued under this section shall empower any Court to exercise any jurisdiction in any suit of which the amount or value of the subject-matter exceeds its proper jurisdiction :

Provided also that no such direction shall be inconsistent with any direction or notification issued by the Local Government under section twelve or thirteen.

35. The ministerial officers of the Courts of the Commissioners, Deputy Commissioners and Courts of Small Causes shall be appointed, and may be suspended and dismissed, by the Judges of those Courts respectively, whose orders in such matters shall, in the case of a Commissioner, be final, and, in the case of a Deputy Commissioner and the Judge of a Court of Small Causes, be subject to the general control of the Commissioner. Ministerial officers of subordinate Courts.

The ministerial officers of all Courts controlled by a Deputy Commissioner other than a Court of Small Causes shall be appointed, and may be suspended and dismissed, by the Deputy Commissioner, but subject to the general control of the Commissioner.

Every appointment under this section shall be made subject to such rules as the Local Government from time to time prescribes in this behalf.

The present ministerial officers of the Courts subordinate to the Chief Court shall be deemed to have been appointed under this section.

Power to fine ministerial officers.

36. The Judge or presiding officer of every Court under the control of a Deputy Commissioner may fine in an amount not exceeding one month's salary any of the ministerial officers of such Court who is guilty of misconduct or neglect in the performance of the duties of his office.

The Deputy Commissioner, subject to the general control of the Commissioner, may on appeal or otherwise reverse or modify any such order made by any such Judge or officer other than a Judge of a Court of Small Causes; and may of his own motion fine up to the amount of one month's salary any ministerial officer of any Court under his control other than a Court of Small Causes.

Any Commissioner or Deputy Commissioner and the Judge of any Court of Small Causes may fine any ministerial officer of his Court in an amount not exceeding one month's salary.

CHAPTER V.—Of Appellate Jurisdiction.

First appeals.

37. When by any law for the time being in force an appeal is allowed from any decree or order passed or made by a Civil Court of original jurisdiction, and no provision applicable to the territories to which this Act extends is made by such law for determining the Court to which such appeal shall lie, such appeal shall lie as follows, that is to say—

(*a*) when such decree or order is passed or made by the Court of a Tahsildár or of an Assistant Commissioner with special or ordinary powers—to the Court of the Deputy Commissioner;

(*b*) when such decree or order is passed or made by the Court of an Assistant Commissioner with full powers or of a Deputy Commissioner—to the Court of the Commissioner;

(*c*) when such decree or order is passed or made by the Court of a Commissioner—to the Chief Court.

When Commissioner and Chief Court

38. When the decision of the Court of a Deputy Commissioner or Commissioner passed in appeal under section thirty-seven reverses or modifies the

decree or order of the Court of original jurisdiction, and is not declared by any law for the time being in force to be final, the Court of the Commissioner, when such decision has been passed by the Court of a Deputy Commissioner, and the Chief Court, when such decision has been passed by the Court of a Commissioner, may receive a further appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the lower Courts, it is of opinion that a further consideration of the case is requisite for the ends of justice. may receive further appeal.

39. The following clause shall be added to the Code of Civil Procedure, section 584 :— Modification of Code of Civil Procedure, sections 584, 586.

"(*d*) the existence or non-existence, validity or invalidity, of a custom alleged to have the force of law."

The words "second appeal" in section 585 of the same Code shall be deemed to include an appeal against the order of the Court of a Commissioner passed under section thirty-eight of this Act.

In modification of the same Code, section 586, a further appeal may be received under section thirty-eight of this Act in any suit of the nature cognizable in Courts of Small Causes when the amount or value of the subject-matter of the original suit is less than five hundred rupees : Provided that no such appeal shall lie when such amount or value does not exceed the sum of fifty rupees.

40. The period of limitation for an appeal under section thirty-seven, thirty-eight or thirty-nine shall run from the date of the decree, order or decision appealed against, and shall be as follows, that is to say :— Period of limitation.

(*a*) when such appeal lies to the Court of a Deputy Commissioner or Commissioner—sixty days;

(*b*) when such appeal lies to the Chief Court—ninety days.

In computing such periods of sixty and ninety days, and in all respects not herein specified, the limitation of such appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

41. Any Civil Court may, either of its own motion or on the application of any of the parties, after giving notice to the parties and hearing such of them as desire to be heard, withdraw any civil appeal pending in any Court under its superintendence or control, and try such appeal itself or transfer the same for trial to any other Court under its superintendence or control and of a grade equal or superior to that of the Court from which such appeal is withdrawn. Power to withdraw and try or to transfer appeal.

CHAPTER VI.—Of Advocates and Pleaders.

42. Notwithstanding anything contained in the Pleaders, Mukhtárs and Revenue Agents Act, 1865, sections 45 and 46, no person shall appear, plead Who may plead, &c., in the Courts.

or act on behalf of another in any Civil Court unless with the permission of the Chief Court.

Power to make rules regarding pleaders.

43. The Chief Court may from time to time make rules to regulate applications for permission to appear, plead or act in all or any of the Courts under its control, and the form in which such permission shall be granted.

Power to withdraw or suspend permission to appear, &c., in Courts.

44. The Chief Court may at any time, for sufficient reason, withdraw any permission granted under this chapter, or suspend the operation of the same.

Power to fix pleaders' fees as between parties.

45. The Chief Court may from time to time by general order in writing fix and regulate the fees which shall be payable upon all proceedings in such Court by any party in respect of the fees of his adversary's pleader.

CHAPTER VII.—MISCELLANEOUS.

Judges not to try certain suits and appeals.

46. Except with the consent of the parties, no Judge of any Court shall try any suit or appeal to or in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal.

When any such suit, appeal or proceeding comes before him, he shall forthwith transmit the record of the case to the Chief Court with a report of the circumstances attending the reference. The Chief Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section 25.

Rules when to have force of law

47. All rules made and forms prescribed under section twenty-six and section twenty-seven, clauses (*a*), (*b*), (*d*) and (*e*), shall be submitted for sanction to the Local Government, and, on receiving such sanction, shall be published in the official Gazette, and shall thereupon have the force of law.

Local Government may transfer power conferred by section 25, to a single Judge.

48. The Local Government may from time to time, with the previous sanction of the Governor General in Council, by notification in the official Gazette, appoint a single Judge of the Chief Court to exercise the power of superintendence conferred on such Court by section twenty-five, and may cancel such notification.

While such notification continues in force, such power shall be exercised by the Judge appointed thereby and not otherwise.

Power to invest Settlement-officers with powers of Civil Courts

49. The Local Government may from time to time, by notification in the official Gazette, declare that a settlement of land-revenue is in progress in any local area, and invest any officer making or controlling such settlement with all or any of the powers of any Court constituted under this Act for the

purpose of trying all or any specified class of suits and appeals relating to land, or the rent, revenue or produce of such land, arising in such local area. in certain cases.

The publication of any notification under this section shall be conclusive evidence that a settlement of land-revenue is in progress in the local area to which the notification refers.

The Local Government may cancel any such notification.

While such notification continues in force, such powers shall be exercised by the officers so invested and not otherwise:

Provided that the Local Government may by order published in the official Gazette direct that any jurisdiction with which any officer may have been invested by such notification shall be exercised solely by the Civil Court by which such jurisdiction would have been exercised if such notification had not been published:

Provided also that any cases pending before any officer under such notification when it is cancelled may, notwithstanding such cancellation, be disposed of by him as if it continued in force, unless the Local Government directs (as it is hereby empowered to do) that such cases shall be transferred for disposal to the Court by which they would have been disposed of if such notification had not been published.

Explanation.—In this section "land" means land assessed to the land-revenue or whereof the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, and all land the property of Government not within the site of any town or village.

50. For the purposes of section forty-nine, the Local Government may, notwithstanding anything herein contained, from time to time direct that any of the Courts hereinbefore mentioned (except the Chief Court) shall, in respect of any specified class of cases, be subordinate to, or subject to the control or superintendence of, any authority other than those herein specified. Power to alter subordination of Courts for purposes of section 49.

SCHEDULE.

(*See section 2.*)

ACTS REPEALED.

Number and year of Act.	Title.
XIX of 1865 ...	An Act to define the jurisdiction of the Courts of Judicature of the Panjáb and its Dependencies.
IV of 1866 ...	An Act to amend the constitution of the Chief Court of Judicature in the Panjáb and its Dependencies.
XXVII of 1867 ...	An Act to empower Deputy Commissioners in the Central Provinces, the Panjáb, Oudh and the Jhánsí Division to distribute the business in subordinate Courts.
III of 1868 ...	An Act to authorize the Local Government of the Panjáb to invest any person with the powers of an Assistant Commissioner or Tahsíldár.
IX of 1873 ..	An Act to prolong the law relating to Appeals and Reviews of Judgment in the Panjáb
V of 1874 ...	An Act to invest the Assistant Commissioner in charge of the Kullu sub-division of the Kángra District with certain appellate powers.
XIX of 1875 ...	An Act to provide an appeal from certain decrees of the Chief Court of the Panjáb, and for other purposes.

ACT No. V OF 1878.

Received the Governor General's assent on the 9th of February, 1878.

An Act to amend the law relating to the levy of rates on land in the Panjáb.

Preamble. WHEREAS, in order to defray the expenditure incurred and to be incurred for the relief and prevention of famine, it is necessary to make a permanent increase to the annual revenues, and it is accordingly expedient to provide, in the territories administered by the Lieutenant-Governor of the Panjáb, for the levy on land of rates in addition to those now applied to local purposes; and whereas it is therefore expedient to repeal the Panjáb Local Rates Act, 1871, and to re-enact it with the amendments hereinafter appearing; It is hereby enacted as follows:

Short title. 1. This Act may be called "The Panjáb Local Rates Act, 1878:"

Local extent. It extends only to the territories for the time being administered by the Lieutenant-Governor of the Panjáb;

And it shall come into force on such date as the Governor General in Council by notification in the *Gazette of India* directs. Commencement.

2. From such date the Panjáb Local Rates Act, 1871, shall be repealed. But all rates imposed, sums credited to the Local Government, committees appointed and notifications published under the said Act, shall be deemed to have been respectively imposed, credited, appointed and published under this Act; Repeal of Act XX of 1871.

And all assignments made under the said Act shall be deemed to be allotments made under this Act.

3. In this Act— Interpretation-clause.

'Land' means land assessed to the land-revenue, and includes land whereof the land-revenue has been, wholly or in part, released, compounded for, redeemed or assigned; 'Land.'

'Landholder' means any person responsible for the payment of the land-revenue, if any, assessed on land. It also includes a person holding land, the land-revenue of which has been, wholly or in part, released, compounded for, redeemed or assigned; 'Landholder.'

'Annual value' means— 'Annual value.'

(1) double the land-revenue for the time being assessed on any land, whether such assessment be leviable or not;

(2) and, where the land-revenue has been permanently assessed, or has been, wholly or in part, compounded for or redeemed—

double the amount which, but for such permanent assessment, composition or redemption, would have been leviable;

'Year' means the year commencing on the first day of April. 'Year.'

4. All land shall be liable to the payment of such rates as the Lieutenant-Governor from time to time directs, not exceeding eight pies for every rupee of its annual value. Rate assessable.

Such rate shall be paid by the landholder independently of, and in addition to, any land-revenue assessed on land for the land-revenue of which he is responsible, and any local cesses now leviable therefrom:

Provided that wherever the proprietors of any land pay the land-revenue in kind to any assignee of revenue or any village-headman, such assignee of revenue or village-headman shall be responsible for the payment of the said rate, instead of the proprietors, and no demand shall be made by any such assignee or village-headman on any such proprietor in respect of the payment of any such rate.

5. Whenever a rate is charged on a landholder in respect of lands held by a tenant with a right of occupancy holding at a favourable rent, such landholder may realize from such tenant a share of the said rate, bearing the Power to recover a share of rate from tenant.

same proportion to the whole rate as the excess of the annual value over the rent paid by such tenant bears to half the annual value.

Rates to be credited to Local Government.

6. The proceeds of all rates imposed under this Act shall be carried to the credit of the Local Government.

Appropriation for increasing revenues available for famine purposes.

7. From the sums so credited, the Lieutenant-Governor shall in each year appropriate such amount, not exceeding one-fourth of the total proceeds of the rates assessed in such year, as the Governor General in Council may direct, for the purpose of increasing the revenues available for defraying the expenditure incurred or to be incurred for the relief and prevention of famine in the said territories; or, if the Governor General in Council so directs, in any other part of British India.

Allotment for local improvements.

Subject to such appropriation, the Lieutenant-Governor shall from time to time allot from the said sums such amount as he thinks fit, to be applied in each district for expenditure on all or any of the following purposes:—

(1) The construction, repair and maintenance of roads and other means of communication;

(2) The construction and repair of school-houses, the maintenance and inspection of schools, the training of teachers, and the establishment of scholarships;

(3) The construction and repair of hospitals, dispensaries, lunatic asylums, wells and tanks, the payment of all charges connected with the purposes for which such buildings or works have been constructed, the planting and preservation of trees, and any other local works likely to promote the public health, comfort or convenience:

Provided that the amounts so allotted in any year for any district shall not in the aggregate be less than three-fourths of the proceeds of the rate assessed in such district in such year.

Works benefiting several districts.

8. In the case of works which benefit more districts than one, the Lieutenant-Governor may determine what proportion of the expenses of the work shall be borne by each of the districts benefited thereby, and such proportion shall be payable out of the allotments made as aforesaid to such districts respectively.

Unexpended portion of allotment.

9. Any portion of such allotment remaining unexpended at the end of the year in which the allotment was made may, at the discretion of the Lieutenant-Governor, be re-allotted for expenditure in the same district, or may be applied for the benefit of the Panjáb, to such one or more of the purposes mentioned in the second clause of section seven as the Lieutenant-Governor from time to time directs.

Accounts to be kept.

10. Accounts of the receipts in respect of all rates levied under this Act and of the allotments made under section seven shall be kept in each district.

Such accounts shall, at all reasonable times, be open to the inspection of the local Committee hereinafter mentioned.

An abstract of such accounts shall be prepared annually in English and in the vernacular language of the district, and shall be open, at all reasonable times, to public inspection at suitable places within the district without the payment of any fee.

An abstract of such accounts shall also be published annually in the local Gazette.

Local Committees.

11. The Lieutenant-Governor shall appoint, in each district, a Committee, consisting of not less than six persons, for the purpose of determining how the amount allotted under section seven shall be applied, and of supervising and controlling such amount:

Provided that not less than one-third of the members of such Committee shall be persons not in the service of Government, and owning or occupying land in the district, or residing therein:

The Lieutenant-Governor shall from time to time prescribe the manner in which the members of such Committee shall be appointed or removed, and shall define the functions and authority of such Committee.

Suits under Act cognizable by Courts having cognizance of suits for rent.

12. Suits for the recovery from co-sharers, tenants or others, of any sum on account of any rate imposed under this Act, and all suits on account of illegal exaction of such rate, or for the settlement of accounts, shall be cognizable by the Courts which, for the time being, have cognizance of suits for rent due on land.

Appeals.

13. In matters connected with the assessment and collection of any sum leviable under this Act, an appeal shall lie from the order of any person authorized under this Act to make assessments, to such person as the Lieutenant-Governor appoints:

Provided that such appeal shall be presented within thirty days from the date of such order.

The order of such person on such appeal shall be final.

Recovery of rates.

14. All sums due on account of any rate imposed under this Act shall be recoverable as if they were arrears of land-revenue due on the land on account of which the rate is payable.

Supplementary powers of Local Government.

15. The Lieutenant-Governor may by notification from time to time—

(*a*) prescribe by what instalments and at what times such rate shall be payable, and by whom it shall be assessed, collected and paid;

(*b*) appoint the person or class of persons to whom the appeals referred to in section thirteen shall lie;

(*c*) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement;

(*d*) exempt wholly or in part any portions of the territories under his government from the operation of this Act, or exempt any land from liability to pay the whole or any part of any rate under this Act, and cancel such exemption;

(*e*) direct fresh measurements and vary the assessment accordingly.

Every notification under this section shall be published in the local Gazette.

ACT No. XII OF 1878.

Received the Governor General's assent on the 28th of March, 1878.

An Act for the further amendment of the Panjáb Laws Act, 1872.

Preamble. For the purpose of further amending the Panjáb Laws Act, 1872; It is hereby enacted as follows:—

Substitution of new section for Act IV of 1872, s. 5. 1. For section 5 of the said Act the following shall be substituted (namely):—

Decisions in certain cases to be according to Native law. "5. *Vide supra, p. 125.*

Substitution of new sections for Act IV of 1872, ss. 9 to 18. 2. For sections 9 to 18 (both inclusive) of the same Act, the following shall be substituted:—

Right of pre-emption. "9 to 18. *Vide supra, pp. 125—128.*

Substitution of new section for Act IV of 1872, s. 35. 3. For section 35 of the same Act the following shall be substituted (namely):—

Jurisdiction of Court of Wards. "35. *Vide supra, p. 130.*

Amendment of Act IV of 1872, section 38. 4. To section 38 of the same Act the following clause shall be added (namely):—

"Persons whose property is under the superintendence of the Court of Wards shall not be competent to create, without the sanction of the Court, any charge upon, or interest in, such property or any part thereof."

5. To section 40 of the same Act shall be added the words 'and may withdraw any powers so conferred.' Amendment of Act IV of 1872, section 40.

6. In sections 43, 44 and 47 of the same Act the words 'with the consent and' shall be omitted. Amendment of Act IV of 1872, sections 43, 44 and 47.

7. Whoever breaks any rule made by the Local Government under the same Act shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to fifty rupees, or with both. All penalties inflicted since the fifteenth day of July 1875 which might have been inflicted if this section had been in force, shall be deemed to have been inflicted in accordance with law. Penalty for breach of rules under Act IV of 1872.

8. To the same Act the following section shall be added:— Recovery of advances made by Government.

"52. *Vide supra, p. 136.*

PART III:

RULES FOR THE CONSERVANCY OF FORESTS AND JUNGLES IN THE HILL DISTRICTS OF THE PANJAB TERRITORIES.[a]

Power to mark off ground for timber preserves.

1. In any Hill District within British jurisdiction, the Civil Authorities have power to mark off any tract, plot or ground, wheresoever situated, which they may consider to be specially adapted for the growth of timber or fuel.

To declare preserve public, to place boundary-marks, &c.

2. The tract, plot or ground so marked off, may be declared to be a public preserve, denoted by boundary-marks, fenced and protected from trespass of all kinds.

To regulate felling and cutting of trees.

Within it the said Authorities are empowered to prohibit, restrict or regulate all felling and cutting, and to arrange for the development, preservation and growth of the trees, shrubs or brush-wood, in such manner as may seem to them expedient.

To grant privileges of cutting and felling and levy fees.

3. The said Authorities within the said limits are also competent to grant to any party privileges of cutting or felling, and to demand and receive fees from such party, and to determine the amount or rate of the fees.

To proclaim prohibitions, &c., in regard to trees generally.

4. Within the said Hill Districts, the Civil Authorities may proclaim publicly prohibition, restriction or regulation in regard to the felling or cutting, or other injurious act for any purpose whatsoever, of any species of tree, shrub or brush-wood, wheresoever it may be found growing, of whatever size or growth, whether grouped together or scattered about, which they may consider specially suited for the production of timber or fuel.

To grant privileges of felling and cutting trees generally.

5. The said Authorities, in regard to the said species of tree, shrub or brush-wood, may grant privileges of felling or cutting to such parties as they may think proper, with or without the payment of fees, to be fixed as declared in rule 3.

Bar to objection to rules on ground of proprietary or other right.

6. No person shall be entitled to object to the foregoing rules, whether relating to enclosures or to particular species of tree, shrub or brush-wood, on the score of proprietary or manorial right; provided always that the Civil Authorities do not interfere with the wood or fuel that may be really required by the occupants or owners of the land for agricultural or domestic purposes.

Power to regulate operations likely to injure supplies of timber.

7. With the proviso above described, the Civil Authorities within the said Hill Districts may prohibit, restrict or regulate any operation which they may consider calculated to destroy or injure existing supplies of timber or fuel.

[a] Sanctioned by the Governor General in Council in letter of the Secretary to the Government of India, No. 1789, dated 21st May 1855. These rules were by Schedule I to the Panjáb Laws Act, 1872, declared to be in force, and they have not been expressly repealed.

To prohibit firing forests, &c.

8. The setting fire to forest, grass, brush-wood or other combustible substances in a manner calculated to destroy or injure existing supplies of timber or fuel, may be absolutely forbidden.

Responsibility of villagers for conflagrations.

9. The villagers, the owners and occupants of the land may be rendered responsible for conflagration occurring within their bounds, whether accidental or not, or by whomsoever caused, and such owner, occupant or villager may in this case be treated as if he had been guilty of an infraction of the rules.

Power to regulate grazing of cattle and domestic animals.

10. The grazing of cattle or domestic animals of all kinds in such places, or with such license as may be, in the opinion of the Civil Authorities, injurious to existing supplies of timber or fuel, may be prohibited, restricted or regulated in such manner as may be deemed expedient; provided always that the proper grounds for the grazing or pasturing of such cattle be not interfered with.

Amenability of owners of cattle found illegally grazing.

11. The owner or possessor of cattle which may be found grazing or pasturing in contravention of the foregoing rule, or in public preserves, or in other forbidden ground, may be treated as if he had been guilty of an infraction of the rules.

Punishment for infringement of rules.

12. Any person who may infringe any of the above rules for the conservancy of forest and jungle may be fined at the discretion of the Civil Authority to an amount not exceeding Rs. 100 for each offence; such fine may be realized by sale of personal property; and in the event of non-realization, the offender may be imprisoned for a term not exceeding three months.

Power to appoint officers to enforce rules.

13. The Civil Authorities may appoint foresters, rangers or other officers for the purpose of enforcing these rules. Such officials shall be held to be vested with due authority to this end.

Powers of officers.

They may range over and examine all forests and jungles within their jurisdiction respectively; lay information of violation of the rules; bring persons before the Civil Authority who may be found infringing the said rules; and execute summonses;

Liability for abuse of authority.

they will also be liable to the usual pains and penalties for the abuse of their authority.

PART IV:

REGULATIONS MADE UNDER THE THIRTY-THIRD OF VICTORIA, CAP. 3.[a]

REGULATION No. I OF 1871.

Peshâwar District Limitation Regulation, 1871.

[*Published in the Gazette of India of 22nd July 1871, p. 544, and in the Panjâb Gazette of 27th July 1871, p. 926.*]

The following Regulations having been submitted by His Honour the Lieutenant-Governor of the Panjâb to His Excellency the Governor General in Council, have been by him considered and approved, and are hereby published for general information as having the force of law under the provisions of 33 Vic., cap. 3, section 1:

1. Section 1, paragraph 12 of Act XIV of 1859, prescribing a period of limitation of twelve years from date of cause of action for suits for the recovery of immoveable property, or of any interest in immoveable property, shall have no effect as regards claims for land, and the rent, revenue and produce of land preferred in the Settlement Courts of the Peshâwar District during the present revision of settlement.

In substitution thereof the following rules are prescribed:

2. Suits regarding land, or the rent, revenue or produce of land, and suits decided during the currency of the summary settlement in which the claim has been rejected as barred by lapse of time under the "twelve years' limitation" rule, may be entertained by the Settlement Courts: provided the cause of action arose within twelve years previous to annexation, that is to say, after the first of March 1837.

3. Rule 2 shall not apply to decisions regarding village-boundaries, or to any cases that have been decided on their merits by the Commissioner, or the Financial Commissioner, or the Chief Court in appeal, except with the sanction of those Authorities.

4. The provisions of Act XIV of 1859 regarding execution of decrees are modified to the following extent: In suits for execution of decree in which an order has been passed that execution is to be carried into effect during the

[a] Extended by Resolution of the Secretary of State for India in Council, dated 6th October 1870, to the Districts of Hazára, Peshâwar, Kohât, Bannu, Dera Ismâil Khân, Dera Ghâzi Khân and the Purgana of Spîti.

present settlement, effect shall be given to that order accordingly, irrespective of the time that has elapsed since the order was recorded.

5. In cases where no order has been recorded directing execution to be carried into effect at settlement, and where the original decree has never been carried into effect, the persons concerned may apply to the Settlement Courts for execution, irrespective of the time that has elapsed since the date of original order, and execution may be ordered accordingly, unless the case is one that should be tried *de novo* under Rule 2.

6. When the settlement-operations now in progress in the Peshâwar District shall have been declared in the Government Gazette to have ceased, these rules shall cease to have effect.

REGULATION No. I OF 1872.

Panjáb Frontier Regulation, 1872.

[*Published in the Gazette of India of 6th January 1872, p. 5, and in the Panjáb Gazette of 11th January 1872, p. 20.*]

The following Regulations for the peace and government of the Districts of Hazára, Peshâwar, Kohát, Bannu, Dera Ismáíl Khán and Dera Gházi Khán having been proposed by His Honour the Lieutenant-Governor, have been considered and approved by His Excellency the Viceroy and Governor General in Council, and are now published for general information, as having the force of law under 33 Victoria, chapter 3, section 1 :—

1. In the event of any frontier tribe acting in a hostile or unfriendly manner to the British Government, it shall be lawful for the Deputy Commissioner, subject to the sanction of the Commissioner, to detain all or any members of the said tribe, and to detain or confiscate their property, to debar members of the tribe from access into British territory, and to prohibit British subjects from all intercourse with such tribe.

2. No new hamlet, village, tower or walled enclosure shall be erected within five miles of the British frontier without the consent of the Commissioner of the Division, who shall have power to prohibit the erection thereof, if deemed necessary. In the event of the Commissioner prohibiting such erection, he must record the grounds of his decision.

3. The Deputy Commissioner, with the concurrence of the Commissioner, may impose fines on village-communities, the inhabitants of which, after due enquiry, are found to be guilty of colluding with or harbouring criminals, or combining to suppress evidence in criminal cases :

Provided that, when the fine imposed shall exceed one-half of the year's

revenue of the village, the case shall be referred for sanction to the Local Government.

All fines imposed under this section shall be recoverable, in default of payment, in the same manner as arrears of land-revenue.

4. When any person is known or believed to have a blood-feud, or other cause of quarrel likely to lead to bloodshed with parties beyond the Border, the Deputy Commissioner may require such person to reside beyond the limits of the territory to which these rules apply, or in such place within the territory as he may deem desirable:

Provided that, if such person be a resident of the village, hamlet or place from which he is required to remove, the sanction of the Local Government be obtained.

5. Whenever it may be expedient on military grounds, it shall be lawful for the Local Government to direct the removal of any village on the immediate Border to any other site within five miles of the original site, and to award such sums to the inhabitants as shall, in the opinion of the Local Government, be proper compensation for any loss which may have been occasioned to them by such removal.

6. [*Repealed by Regulation No. IV of 1873, sec. 1.*]

7. Section 445 B of Act VIII of 1869 [a] shall have no force in the districts to which these rules apply. Cases contemplated in that section shall be tried according to the procedure provided in chapter XVII of the Criminal Procedure Code.

8. Any man who has sexual intercourse with a person who is, and whom he knows or has reason to believe to be, the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape; and any married woman who knowingly and by her own consent has sexual intercourse with any man who is not her husband, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

9. Section 209 of Act VIII of 1869 [b] shall be read as if the clause noted in the margin were omitted.

"specified in column 7 of the second schedule, as hereto annexed, as triable by the Court of Session."

10. Persons offending against any of the rules here laid down shall be liable, on conviction, to imprisonment, rigorous or simple, which may extend to six months, or fine which may extend to rupees 1,000.

11. In every district a register shall be kept up of all cases dealt with under

a, b Repealed by Act No. X of 1872.

these rules, and a statement of all such cases shall be submitted half-yearly to the Local Government.

12. The Police Act V of 1861 may, at the discretion of the Lieutenant-Governor, be extended to the districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáil Khán and Dera Gházi Khán, subject to the limitations specified below :—

(*a*).—Such portion of the duties of the Inspector General of Police as refer to inspection, pay and clothing, shall be performed by the Inspector General of Police, Panjáb :

(*b*).—All other duties now performed by the Inspector General shall be performed by the Commissioner, who shall be held to possess the powers of an Inspector General within the limits of his own division :

(*c*).—Deputy Commissioners shall be held to be *ex officio* Deputy Inpectors General of Police within the limits of their respective districts, without prejudice to their exercise of all the powers of a Magistrate.

13. So far as regards the Hazára District, Act III of 1870 (the Agror Valley Act) is repealed ; such parts of the district as have been dealt with under the Act are restored to the jurisdiction of the ordinary Courts of Civil and Criminal Judicature, and to the control of the offices of revenue constituted by the Rules, Regulations and Acts in force in the territories under the control of the Lieutenant Governor of the Panjáb, and to the law prescribed for the said Courts and offices by the Rules, Regulations and Acts aforesaid ; and all Rules heretofore prescribed for the Hazára District, or any part thereof, either under Ordnance of the 4th day of October 1869, or under the Agror Valley Act, are hereby repealed, with the exception of the following, which are hereby declared to be in force in the form below stated :—

LAND REVENUE.

I.—Notification No. 636, dated 4th October 1870.

Suits of the class described in section 23 of Act XIX of 1865[a] ("The Panjáb Courts Act") shall, during the progress of settlement-operations in the Hazára District, be heard in the Settlement Courts of the Hazára District.

HAZÁRA SETTLEMENT RULES.

A.—RULES FOR THE SETTLEMENT OF PROPRIETARY RIGHTS.

1. The Settlement-officer shall cause to be prepared for each village a statement showing for each class of village-occupants, the origin, nature and dura-

[a] Repealed by Act No. XVII of 1877. The suits referred to are cases of succession or inheritance in which the claim relates "not only to land, but to land and other property not permanently attached to the land comprised in the claim."

tion of their connection with the village. The statement shall include all who have any interest in, or claim upon; land situate in the village.

After examining this statement the Settlement-officer shall declare, by an order in writing enfaced thereon, what parties are in proprietary possession of any description; and what parties are not in such possession, or only tenants. Every effort is to be made by [the] Settlement-officer to ensure the purport of this document being made thoroughly known to all parties interested.

2. Thereafter it shall be open to any one who considers himself entitled to other rights than those he is by that order awarded, to present to the Settlement-officer a petition stating his claim. The claim shall be enquired into and decided in the manner provided for judicial suits.

3, 4 and 5. [*Repealed by Regulation No. II of 1874.*]

6. Where a double proprietary right (superior and inferior) is found to exist in the same land, the Settlement-officer may, upon the application of either party, in lieu of awarding rent to the superior proprietor, award to him possession of a fair proportion of the village-lands, cultivated and uncultivated. Such award shall be in full satisfaction of the superior proprietor's claims: provided that—

(i) it shall not give to the inferior proprietors any power of alienation which they did not before possess, or to their collateral heirs any right of succession which is opposed to existing custom; the prevailing usage on each point being carefully ascertained and recorded by the Settlement-officer;

(ii) nor shall it deprive the superior proprietor of any right of pre-emption or reversion to which he may be otherwise fairly entitled.

7. In cases in which a co-sharer of a tribe among whom the custom of "*waish*" (periodical repartition on ancestral shares) prevailed before Síkh Rule has been deprived of land by the State for public purposes, or has lost his land within British Rule by diluvion, which land previous to Síkh Rule would have been subject to the tribal "*waish*," he shall be permitted to present a claim to the Settlement-officer for an equivalent portion of shamilât-land in the same village. The Settlement-officer or other competent judicial officer subordinate to him shall thereon summon a council of the community against whose shamilât the claim is laid and investigate its truth. If the loss of any land in the manner above stated be proved, and if the claimant has no other land or insufficient land left for the support of himself and his dependents, and if the enforcement of the claim shall not be on other grounds inequitable, the investigating officer shall decree to the claimant such portion of the shamilât-land aforesaid as may appear equitable with reference to the loss of the claimant and the extent of the village-shamilât; provided that, in the case of land taken by the State, no order for the making over of shamilât-land to the

claimant shall be passed until the claimant deposits the consideration-money which he received from the State; and the consideration-money thus deposited shall be made over to the community in lieu of the shamilát-land taken.

8. The Settlement-officer shall ascertain for each proprietary community the custom concerning pre-emption, and frame with their assistance suitable rules for its enforcement hereafter.

B.—RULES FOR ASCERTAINING THE CUSTOMS REGARDING INHERITANCE OF RIGHTS IN THE SOIL, OTHER THAN ASSIGNMENTS OF REVENUE.

9. The Settlement-officer shall ascertain for each tract, tribe or village (as may be most convenient) the customs that regulate the devolution of all rights in the soil, other than assignments of land-revenue. And in cases in which such customs may appear on enquiry to be doubtful, he shall, in communication with the chief representatives of the said tract, tribe or village, and with the sanction of the Commissioner, declare for future observance such custom as may be most consonant with the feeling of the parties concerned. Should any party consider himself aggrieved by the record thus made, he shall have a right of appeal to Financial Commissioner.

C.—RULES FOR ASCERTAINING AND DEFINING THE RIGHTS AND LIABILITIES OF TENANTS.

10 to 17. [*Repealed by Regulation No. III of 1873, section 4.*]

E.—RULES FOR REGULATING THE SUCCESSION TO REVENUE-ASSIGNMENTS.

18. The Settlement-officer shall ascertain for each class of revenue-assignments granted for more than one life, or for the period of settlement, or for each of such cases where necessary, what rule is best calculated to secure to Government the attainment of the object for which the grant was given. The result of his enquiries shall be submitted to the Commissioner, who shall pass final orders as to the rule to be hereafter followed, reporting the same through the Financial Commissioner for the sanction of Government.

19. All cases in which orders of succession contrary to the orders to be laid down under rule 18 have been passed shall be reported by the Settlement-officer to the Commissioner, who is hereby empowered to revise the previous orders in the spirit of rule 18, or in such modified way as the peculiar circumstances of such cases may call for.

F.—INVESTIGATION OF SETTLEMENT-INÁMS AND UNREPORTED REVENUE-ASSIGNMENTS.

20. The Settlement-officer shall investigate the tenure of all settlement-ináms and unreported revenue-assignments.

21. He shall have authority to confirm for life, or for the period of the new settlement, all petty ináms to village-institutions; also small ináms held by the individuals selected to be lambardárs; but all other unreported ináms shall be reported for the orders of the Commissioner.

22. The Commissioner may confirm for the period of the settlement the ináms so reported to him, or he may resume them.

23. The Commissioner may create new small zamíndárí ináms to be held for life or for the period of settlement, not exceeding the amount of those resumed.

24. The case of any important inám shall be reported to Government for disposal under the Jágír Rules.

25. The Settlement-officer shall draw up and submit to the Commissioner, for sanction of Government, rules to regulate the succession to these ináms in cases in which the holder may die during the currency of the settlement; and such rules when sanctioned shall have the force of law.

G.—Rules for revising the Appointment of Lambardárs.

26. The lambardárí arrangements made at the previous summary settlement shall be revised on the following principles:—

27. In each community such person or persons shall be appointed lambardárs as are best capable of representing the proprietary body. *Ceteris paribus*, a preference shall be given to those who have hitherto held this office.

28. A multiplicity of lambardárs in the same village is not desirable. But where a due representation of the proprietary body cannot be otherwise obtained, such number as may be necessary to this object shall be appointed. Great tenderness should be exercised in depriving any individual or family of this privilege when it has been long enjoyed by them.

29. In every village in which it is necessary to appoint more than one lambardár, a head lambardár shall be selected.

30. The lambardárí cess shall be five per cent. on the Government jama, and in villages in which more than one lambardár is appointed, one-fifth of this cess, or so much as may be deemed necessary in each case, shall be reserved as an extra grant for the office of head lambardár.

31. The Settlement-officer may, with the sanction of the Commissioner, supplement the emoluments of any lambardár or head lambardár by a small inám. This inám to be given only in respect of the assignee's own proprietary holding.

32. The appointment of head lambardár shall be for life only, and he shall be at any time removeable by order of the Commissioner for sufficient cause shown.

33. In tracts where tribal Chiefs or headmen are found, whose active co-operation on the side of Government it may be desirable to secure, the Settlement-officer may, with the concurrence of the Commissioner, award to such persons an allowance (that shall not be more than ten per cent.) upon the land-revenue of the tract in which they have influence.

34. The Settlement-officer shall, with the concurrence of the Commissioner, lay down rules defining the duties and responsibilities of lambardárs, head lambardárs and tribal headmen appointed under these rules.

II.—RULES FOR SECURING A SYSTEM OF VILLAGE-RECORD.

35. Each proprietary community shall appoint a patwárí. The person appointed shall be a non-proprietary resident of the village, and shall be able to write.

The proprietors shall be encouraged to appoint persons who can write Urdu to this post.

36. He shall be paid, where this may appear suitable, by the lease to him for the term of his office of a portion of the village-shamilát without rent; or in such other way as the proprietary community may wish and the Settlement-officer may approve of.

37. There shall ordinarily be a patwárí to each village; but in special cases of small villages the Settlement-officer may sanction a different arrangement.

38. It shall be the patwárí's duty to keep a diary, in which shall be punctually recorded all occurrences affecting the tenure of land in the village, and such other matters as may be prescribed to him.

39. To each convenient circle of villages the Settlement-officer shall appoint a Náib Kánungo. He shall be a resident of his circle, and shall be remunerated by a rate on the jama of each village therein contained, which should not ordinarily exceed three per cent.

40. It shall be the Náib Kánungo's duty to classify in forms similar to that of the settlement-record the entries in the diaries of the patwárís of his circle. And he shall generally supervise the patwárís.

41. The Settlement-officer shall draw up, with the concurrence of the Commissioner, rules for the further attainment of the objects of these instructions. The rules shall define the manner in which these officials shall be appointed and dismissed; their duties and responsibilities, and those of the proprietary community in connection with them; the papers they shall keep, and the returns they shall submit; and the method and rate of their remuneration.

I.—RULES FOR THE FUTURE ANNUAL PAYMENT OF REVENUE.

42. From the time the new assessments come in force, the revenue of each harvest shall be payable in one payment, instead of in two as heretofore.

43. The Settlement-officer shall fix the latest date for the payment of each harvest's revenue, so that in each tract of different climatic conditions the Government revenue shall fall due about one month after the principal crops are harvested.

44. In every case the new assessments shall come into force from the date fixed for the commencement of the agricultural year, under rule 12 of these rules.

K.—Special Cesses.

45. The Settlement-officer will select, for the location of village-schools, one or more large village in each *Iláka*. Every village so selected will be called upon by him, in consideration of the special advantage it will receive by the location therein of the school, to assign (rent and revenue free) a piece of cultivated land from the village-shamilát for the support of the schoolmaster: such land to be given in addition to the one per cent. educational cess.

46. A cess of one per cent. on the revenue shall be imposed on the proprietors, and the proceeds be devoted, under rules to be drawn up at this settlement, to the relief of disease among the population of Hazára.

L.—Rules for defining Rights in Village-sites.

47. The Settlement-officer shall ascertain and record all customs affecting the ownership of the village-site; and the settlement-record shall include a list of the occupants of that site, with such detail as may be practicable; this list shall also specify the rights and interests connected with each tenement and plot so far as they can be ascertained.

48. The customs affecting the village-site thus to be ascertained shall have the same force as the rest of the settlement-record; but the individual entries in the list of tenements shall only be *primâ facie* evidence of the facts therein stated.

M.—Stamps and Fees.

49 to 53. [*Repealed by Regulation No. II of 1874, section 5.*]

N.—Powers of Officers.

54. The judicial and executive powers of the settlement judicial officers shall remain as át present, except as hereinafter provided.

55. All original orders passed by the Assistant Settlement-officer, Superintendents or Deputy Superintendents, whether in judicial or revenue proceedings, shall be appealable to the Settlement-officer; and he may refer to the Assistant Settlement-officer for disposal any appeals from the orders of the Superintendents and Deputy Superintendents.

56. All final orders passed by the Settlement-officer and Assistant Settlement-officer shall be appealable to the Commissioner.

57. The Superintendents and the Assistant Settlement-officer may revise any final order they may have passed with the permission of the Settlement-officer; and the Settlement-officer and Commissioner may revise any final order they may have passed at any time before the settlement is reported for the sanction of the Local Government.

58. All appeals shall be presented within two months of the order appealed against.

O.—Confirmation of the Settlement.

59. As the record-of-rights in each tract is completed, and whenever any customs have been ascertained or defined, and whenever the Settlement-officer shall have prepared any rules pursuant to these instructions, he shall take an early opportunity of submitting his proceedings to the Commissioner for confirmation.

60. Excepting as in these rules expressly otherwise provided, all records-of-rights, customs, liabilities and rules drawn up by the Settlement-officer shall, when confirmed by the Commissioner and Financial Commissioner, be considered a final settlement of all matters therein treated of; and only those matters shall be revised at ensuing settlements which relate to office-bearers and their duties; and to the amount of and method of paying the Government revenue and cesses, and proprietary rents of any description. And no suit shall lie to enforce a right or usage or liability contrary to the settlement-record: Provided that suits may be brought after settlement to show that any given field was entered under a holding contrary to the Settlement-award in respect of it; and upon this plea being established, the record shall be altered so as to accord with the original award.

61. To prevent injustice occurring owing to the finality thus given to the record, the Settlement-officer shall at once issue a proclamation acquainting the people of Hazára with the preceding rule;

also copies of these rules shall be given gratuitously to each village;

also copies of the final entries in each part of the record shall be given to all persons concerned, before it is reported to the Commissioner for confirmation;

also the Commissioner, before confirming any part of the record, shall satisfy himself by inspection of the rough papers on which it is based, and by personal local enquiry, that it has been prepared with due regard to publicity; and that full opportunity has been given to dissatisfied persons to appeal against the conclusions arrived at by the Settlement-officer.

62. When the settlement has been concluded, the Settlement-officer shall submit a full report to the Local Government, showing the manner in which all rights and interests, public and private, connected with the settlement have been disposed of.

63. The Local Government may, within six months of the receipt of this report, annul or vary any of the proceedings therein reported. And if the Local Government is not fully satisfied that the precautions for securing publicity laid down in rule 61 of this section have been fully observed, it will issue within the said six months an order depriving such parts of the record as it may consider to be imperfectly prepared of the finality contemplated in rule 60.

64. Nothing in these rules shall be taken to bar the admission, within three years of the date of the Settlement-officer's final report, of the individual claims of any person who can prove that, by reason of absence from the Panjáb during the Hazára settlement-operations, he had no probable means of knowing that they were going on.

65. Except as expressly provided in these rules, all the proceedings of the Hazára settlement shall be regulated by the spirit of the enactments under which the first settlements of the interior districts of the Panjáb were carried out.

REGULATION No. I OF 1873.

Spíti Regulation, 1873.

[*Published in the Gazette of India of 22nd February 1873, p. 177, and in the Panjáb Gazette of 27th February 1873, p. 95.*]

THE following Regulation for the peace and government of the Pargana of Spíti having been proposed by His Honour the Lieutenant-Governor of the Panjáb, has been considered and approved by His Excellency the Governor General in Council, and is now published for general information as having the force of law under 33 Vic., cap. 3, section 1:—

This Regulation may be called "The Spíti Regulation, 1873;" it extends to the Pargana of Spíti, and shall come into force on the first day of April 1873.

2. When there is reason to believe that an offence has been committed in the Pargana of Spíti, the Nono of Spíti shall cause the person accused or suspected of having committed such offence to be brought before him, and shall, in his presence, enquire into such offence.

3. The said Nono shall record, or cause to be recorded, at the time and in the presence of the accused, the statements of the complainant, the wit-

nesses, and the accused, and the record of such statements shall be signed or sealed by the said Nono.

4. If the offence be murder or culpable homicide, or causing death by negligence, or an attempt to commit murder, or culpable homicide, or the abetment of any of these offences, or the abetment of suicide, or if, in the opinion of the said Nono, it cannot properly be punished by fine, he shall report the case to the Assistant Commissioner of Kulu, and shall, till the receipt of orders from the said Assistant Commissioner, confine the accused person, keeping an account of any sums expended for the guard and keep of such accused person.

5. In the case of any other offence, if, in the opinion of the said Nono, it can be properly punished with a fine of rupees 200, the said Nono may, if he consider the accused person guilty of the offence, inflict a fine of such amount as he thinks fit, not exceeding rupees 200.

6. In every case in which the said Nono fines any person, he shall, if such person demand it, give him a copy of his order, and of all statements made in the case. Such copy should be certified to be a true copy by the Nono, and be signed or sealed by him.

7. Any person fined by the said Nono may appeal within a reasonable time to the said Assistant Commissioner. Such appeal need not be on stamped paper, and may be sent through the post. It must be in every instance accompanied by a certified copy of the Nono's order, and of all statements in the case.

8. If any fine inflicted by the said Nono is not paid within a month, he may order the amount to be realized by attachment and sale of the moveable property of the person fined. If such moveable property is not sufficient to defray the fine, the Nono may report the case to the said Assistant Commissioner of Kulu, and if the Assistant Commissioner of Kulu procures the sanction necessary for the sale of immoveable property, and orders the immoveable property of the person fined to be sold, the said Nono may sell so much of the said immoveable property as is necessary to defray the fine or the unsatisfied balance thereof.

9. The Nono shall, when ordered by the Assistant Commissioner of Kulu, suspend any enquiry in which he may be engaged under this Regulation, and transfer the case and the witnesses to the Assistant Commissioner's Court.

10. The Nono shall not try any case in which he himself, his own servants or relatives are concerned, but send a report of the complaint in such case, to the tahsíl in Kulu.

11. The Nono shall keep up two registers, to contain the following statements, the numbers in each register to correspond :—

Register No. I.—Name of prosecutor, with parentage :
Age, caste and residence :
Name of accused, with parentage :
Age, caste and residence :
Charge :
Final orders and date.

Register No. II.—Name of person fined, with parentage, age, caste and residence :
Date of order :
Amount of fine ordered :
Amount of fine realized.

The statements are to be kept up to date, and the registers submitted twice in the year to the Assistant Commissioner at Kulu, together with the fines realized. They must first be sent in in the Spring, as soon as the passes are open, and again, the second time, in the Autumn, before the passes are closed.

12. Fines may be inflicted by the said Nono under this Regulation for the following offences :—

committing an assault, voluntarily causing hurt, voluntarily causing grievous hurt, wrongful restraint, robbery, theft, rape, unnatural offences, adultery, abduction of women or of children under the age of ten years, kidnapping minors or persons of unsound mind from lawful guardianship :

And such offences, when falling under the jurisdiction hereby conferred upon the Nono, shall not be subject to the jurisdiction or procedure established by the Code of Criminal Procedure.

13. No proceeding of the Nono under this Regulation shall preclude the said Assistant Commissioner from holding an enquiry into any offence committed in the Pargana of Spití, if he think it desirable to do so.

14. No law hereafter passed by the Governor General in Council shall be deemed to extend to the Pargana of Spití, unless the same be specially named therein.

REGULATION No. II OF 1873.

Hazára Forest Regulation, 1873.[a]

[*Published in the Gazette of India of 1st March 1873, p. 187, and in the Panjáb Gazette of 6th March 1873, p. 113.*]

Preamble.

WHEREAS by the Forest Rules sanctioned by the Government of India

[a] Continued by Regulation No. V of 1874, p. 242, *infra*.

on the 21st May 1855,[a] and by the supplementary rules for Hazára sanctioned by the Chief Commissioner of the Panjáb on the 19th January 1857, Government assumed to itself the right to conserve all trees and forest-lands in the said District;

And whereas, consequent on the increased demand for timber and fuel, it is necessary to make better arrangements for the said conservancy, and to define more exactly the matters in which that conservancy consists, the following Regulation for the conservancy of trees and forest-lands in the Hazára District, having been proposed by the Lieutenant-Governor of the Panjáb, and having been taken into consideration and approved by the Governor General of India in Council, and having received the Governor General's assent, is now published with reference to 33 Vic., cap. 3, section 1.

PRELIMINARY.

Definitions. "Forest-land."

1. In this Regulation "Forests" or "Forest-land" includes all uncultivated hill-land, except public ways, graveyards, sacred places, banks and corners of fields, habited sites, and the land immediately attached to such sites:

"Uncultivated."

No land shall be considered "uncultivated" within the meaning of the preceding clause which may be entered as "cultivated" or "fallow" in the faired records of the settlement now being made:

"Zamíndárs."

The word "Zamíndárs" means persons who have a prescriptive right to the user of forest-land; but this Regulation shall in no case be construed so as to give any person a greater right of user than he possesses independently of this Regulation:

Hazára.

This Regulation shall not apply to the hereditary territory of the Nawáb of Umb.

So much of the Regulation published in Notification No. 31P, dated 5th January 1872, as relates to the conservancy of trees and forest-lands in Hazára, is hereby repealed.

DIVISION OF THE FOREST-LANDS INTO RESERVED AND UNRESERVED TRACTS.

Reserved and unreserved tracts defined.

2. At the present settlement, the forest-land shall be divided by the Settlement-officer into reserved and unreserved tracts. The reserved tracts shall include all valuable forests and all forest-land, the close conservancy of which is called for in the public interests, and can be effected without unduly restricting the necessary usances of the agricultural population. All forest-land not included in the reserved tracts is referred to in this Regulation as the unreserved tracts.

Exceptional provisions in reserved tracts.

3. If in any case it may be found impossible to carry out this division without excluding from the "reserved" tract a valuable and important forest,

[a] See *supra*, p. 203.

the Settlement-officer may reserve the forest, subject to such exceptions from the sections of this Regulation applicable to the reserved tracts as may be necessary to secure to the zamíndárs the due supply of their domestic, agricultural and grazing wants and other necessary usances: the said exceptions to be recorded in a settlement-proceeding, and in all other respects such tracts are to be treated as "reserved:"

Also necessary rights of way through reserved tracts, or to drinking-places therein, shall be maintained to the zamíndárs; but no rights of this description shall be claimable unless they are recorded in the settlement-demarcation-proceedings.

Boundaries of reserved tracts.

4. The limits of the reserved tracts shall be indicated by conspicuous boundaries. The boundaries to be erected by the Settlement-officer, and thereafter to be maintained by the Forest Department.

Control and Management.

Control.

5. Both the reserved and the unreserved tracts will be alike under the control of the Forest Department, as regards all matters of forest-administration and forest-revenue dealt with by this Regulation, except so far as is hereinafter otherwise expressly provided.

A.— Unreserved Tracts.

Prohibited acts in unreserved tracts.

6. In these tracts the following acts are prohibited: —

breaking up land for cultivation except after consent of Deputy Commissioner obtained as provided in section 8:

setting fire to grass-tracts, or negligently permitting fire to extend thereto:

setting fire to brushwood, trees or stumps of trees:

girdling, lopping, barking, boring for turpentine, or otherwise injuring growing trees:

removing soil or dead leaves from under trees:

felling standing trees of the descriptions included in the seigniorage-list [see section 12], or burning kilns, without a valid order under section 16 or 17:

cutting young trees under any circumstances:

felling for fuel trees included in the seigniorage-list [see section 12].

Rights of the zamíndárs in the unreserved tracts defined.

7. The zamíndárs' rights in the unreserved tracts are maintained to the following extent and no further:—

(1.) They shall not use the waste-products for the purpose of lime, surkhi or charcoal-burning:

(2.) They may within reasonable limits apply to their own uses, domestic and agricultural, any tree included in the seigniorage-list [section 12] with the permission previously obtained of the Deputy Commissioner or of such

other officer as the Deputy Commissioner may appoint for this purpose. No seigniorage-fees shall be charged in respect of trees so used:

(3.) Subject to the payment to the zamíndárs of half the seigniorage-fees as provided in section 13, and subject to the claims of the zamíndárs provided for in the preceding clause, the trees included in the seigniorage-list are the property of the State. And the right to sow, plant-out and reproduce trees included in the seigniorage-list is reserved to the State; provided that no land be fenced pursuant to this reservation, except for the purpose of protecting young trees; and such fencing shall not be maintained longer than is required for the safety of the young trees:

(4.) Land shall not be brought under cultivation except as provided in section 8:

(5.) Subject to the exceptions and restrictions aforesaid, the unreserved tracts are the property of the zamíndárs; and no forest fees shall be charged to the zamíndárs on account of the use and enjoyment thereof, except so far as is warranted by the foregoing reservations.

Procedure for bringing under cultivation land in the unreserved tracts.

8. If the zamíndárs desire to bring under cultivation any portion of the unreserved tracts, they shall first apply to the Deputy Commissioner for permission to do so. If the land mentioned in the application is covered with valuable forest-trees, permission to cultivate it shall ordinarily be refused. Neither shall permission be granted if the contemplated cultivation would on any other grounds be injurious to forest-conservancy. In the absence of such objections, an order shall be passed permitting the cultivation of the land applied for, and the said land shall cease to be forest-land from the date of the said order.

If the zamíndárs fail to bring the land under cultivation pursuant to this permission within three years from the date of the order granting it, the permission shall lapse, and the land will revert to the forests. *Bonâ fide* cultivation of trees for marketable purposes is cultivation within the meaning of this section. Notice of all permissions to cultivate, granted or revoked under this section, shall be sent to the local Forest-officer.

Unreserved tracts subject to the same provisions as the reserved tracts, with stated exceptions.

9. Saving such rights as are maintained to the zamíndárs by sections 7 and 8, and excepting the special prohibitions prescribed in section 10, the unreserved tracts shall be subject to the same provisions as are prescribed in this Regulation for the reserved tracts.

B.—Of reserved Tracts.

Prohibited acts in reserved tracts.

10. All the prohibitions, except the first detailed in section 6 for unreserved tracts, will also apply to reserved tracts, *mutatis mutandis*. In addition thereto, the following acts are prohibited in reserved tracts:—

grazing or driving cattle or flocks:

cutting grass or brushwood, or collecting fodder :

collecting or selling fallen timber :

collecting gums, resin, honey, wax, or other minor forest-produce :

carrying or kindling fire :

carrying any implement to cut wood, except it is carried in pursuance of a permit to cut :

cultivating land or preparing it for cultivation :

squatting or building.

And it is to be distinctly understood that the zamíndárs may not exercise in the reserved tracts the rights maintained to them in unreserved tracts by section 7, except where, and so far as, special provision to that effect may be made by the Settlement-officer under section 8.

Reserved tracts to be the property of the State.

11. Subject only to the rights maintained under section 3 and to the payment to the zamíndárs of their share of the seigniorage-dues, as prescribed in section 13, the reserved tracts shall be the property of the State. And the whole of the forest-income accruing from them, other than the said seigniorage-share due to the zamíndárs, shall be credited to the State as forest-revenue.

Fellings, Seigniorage and Forest-income.

Assessment of seigniorage.

12. The existing list of seigniorage-fees for trees felled and kilns burnt is hereby maintained, and it shall be open to revision by the Local Government after the lapse of five years from the date of its promulgation. Subsequent schedules shall be similarly revised from time to time, but not oftener than once in every five years ; provided that trees may be at any time added to, or excluded from, the list.

The seigniorage-list may include all valuable timber-trees, and the fees denoted in it shall be levied in respect of all such trees felled or kilns burnt on forest-land other than fellings exempted by clause 2 of section 7.

The fees may be uniform throughout the district or vary for different tracts.

Zamíndárs' share of the seigniorage.

13. Half of the seigniorage-fees levied under section 12 shall be credited to forest-revenue ; the other half shall be paid to the zamíndárs within whose bounds the trees are felled.

In cases in which the Forest Department may fell trees or burn kilns on its own account, or in which Government may direct that its own share of the seigniorage-fees shall not be levied, the share due to the zamíndárs shall be paid notwithstanding.

The Forest Department shall from time to time remit to the Deputy Commissioner the sums due to the zamíndárs under this rule, specifying in each remittance the amount due to each village. And the sums thus received by the

Deputy Commissioner shall be distributed by him to the zamíndárs entitled to receive them once a year as soon after the first day of January as is practicable.

To enable the Deputy Commissioner to check the correctness of the remittances made, duplicates of all felling-orders and of all orders to burn kilns shall be sent to the Deputy Commissioner by the officer issuing them the same day as they are issued.

Regulation of fellings, &c.

14. The tender of the prescribed seigniorage-fees by any person shall not entitle him as of right to an order for felling the trees or burning the kilns covered by the fees, unless the fees be accepted by an officer competent to issue such orders. But the fellings and kiln-burnings shall be regulated by the Forest Department subject to the general instructions of the Local Government.

Seigniorage-fees shall be paid in advance.

15. Seigniorage-fees shall in every case be paid in full in advance prior to the issue of any order to fell trees or burn kilns.

Felling-orders and their conditions.

16. Every order to fell trees or burn kilns shall be in writing.

Such orders shall state the amount of fees paid, and the village within the bounds of which the order shall be executed. They shall not be transferable, nor may they be executed in any other village than that originally named in the order.

Such orders shall be subject to such rules as regards cancellation and refund of fees paid; as regards the selection of the timber to be felled, or the site of the kilns to be burnt; as regards the manner and time of felling the timber, or of burning the kilns; and as regards the time within which the timber or the outturn of the kilns shall be removed from the forest-lands, as the Conservator of Forests may from time to time prescribe with the sanction of the Local Government. For any breach of such conditions the felling-order or kiln-order, in respect of which the breach has occurred, may be revoked by the Forest-officer who issued it, and the timber, kiln and kiln-burnings acquired pursuant to the order, which are then still within forest-bounds, may be forfeited; nor shall any claim lie for the refund of the fees paid in respect of the revoked order: provided always that a printed copy of the said conditions in the Urdu language was annexed to the order at the time of its issue.

Felling-orders issued to zamíndárs, section 7, clause 2.

17. Felling-orders issued under clause 2 of section 7 shall not be subject to the provisions of the preceding section. But they shall be in writing, and a duplicate of each shall be sent at the time of issue to the Executive Forest-officer. Such orders shall lapse if the trees covered by them are not felled within three months from their date.

Offences.

Breach of this Regulation.

18. Any person who commits, or [within the meaning of the Indian Penal Code] abets the commission of, any of the acts prohibited by sections 6, 10

and 26 in the tracts respectively concerned, or who voluntarily neglects the duties imposed on him by section 21, shall, on conviction before a Magistrate, be punished with fine that may amount to rupees one hundred, or to ten times the value of the forest-produce injured or illicitly taken, and, in default of payment, with imprisonment of either description for a term not exceeding six months. In the case of a second conviction, rigorous imprisonment not exceeding six months may be awarded instead of fine: provided that no sentence of fine or imprisonment shall be awarded by any Magistrate in excess of that which he is competent to award in the exercise of the powers with which he has been invested under the Criminal Procedure Code.

Forfeiture of implements, &c.

19. The penalty contained in the preceding section may, in the discretion of the adjudicating Magistrate, be accompanied by the forfeiture of all implements, cattle or conveyances used in the commission or furtherance of the offence adjudicated, and by the forfeiture of all wood or other forest-produce obtained thereby.

Treatment of illicit cultivation.

20. When the offence found is the illicit cultivation of forest-land, the forfeiture authorized in the preceding section may extend to all the produce [growing or reaped] found on the said cultivation, as well as any huts or sheds erected on the land; and the sentence may further direct that the cultivator be ousted forthwith.

Responsibilities of zamíndárs.

21. It shall be the duty of all zamíndárs to aid in the extinguishing of forest-fires and in the prevention of forest-offences in their vicinity.

Communities may be proceeded against.

22. In cases of serious conflagration occurring in the forest-lands, or in any case in which it may appear that any community of zamíndárs neglects to render reasonable assistance to the Forest-officers in the prevention and prosecution of forest-offences, it shall be lawful for the Deputy Commissioner to treat the zamíndárs in whose vicinity the conflagration has occurred, or the community so defaulting, jointly or severally, as themselves guilty of the said acts, and to sentence them to the fine prescribed in section 18, and, in default of payment, to imprisonment as therein laid down. Every such conviction may, in the discretion of the Deputy Commissioner, carry with it the deprivation of all forest-dues at the time outstanding to the credit of the convicted zamíndárs under section 13.

Cattle-trespasses in reserved tracts.

23. All cattle found straying or unlawfully grazing in any reserved forest may be seized by any forest-official, and when so seized shall be driven forthwith to the nearest pound, to be there dealt with in the manner provided by law for cattle impounded for trespassing on cultivated land.

But where cultivation now recorded in the settlement-papers closely adjoins the boundary of a reserved tract, no cattle straying from such cultivation or its neighbourhood into the adjoining reserved forest shall be seized under

this section, unless the boundary-line adjoining the cultivation has been efficiently fenced by the Forest Department.

And where a right-of-way through a reserved tract is maintained, it shall be held to protect from seizure under this section all cattle lawfully driven along the road or track indicated, even though they stray-off into the forest, so long as the driver uses reasonable diligence to prevent the cattle from straying, and to drive back such as stray.

Appeals.

24. Convictions under section 22 shall be appealable to the Commissioner; all other criminal proceedings under this Regulation shall be appealable or otherwise in the manner provided in the Criminal Procedure Code.

MISCELLANEOUS.

Voluntary conservancy.

25. In any case in which not less than two-thirds of the zamíndárs having rights in the particular piece of land in question may so desire, it shall be lawful for the Settlement-officer or for the Deputy Commissioner, after the conclusion of the settlement-operations, to set aside out of the unreserved tracts a given portion for strict conservancy, and to record such rules in connection therewith as the zamíndárs may desire and are not objectionable on general grounds; the arrangement to hold good for the period of settlement or for such shorter period as not less than two-thirds of the zamíndárs may desire. Breaches of such rules shall be punished in the manner provided under sections 18 to 24.

Injury to trees generally prohibited.

26. The following acts are prohibited irrespective of their connection [or otherwise] with forest-lands :—

injuring or allowing cattle or flocks to injure any trees, groves or gardens on the sides of roads in cantonments or elsewhere: provided that the said acts be not committed in exercise of a private right:

cutting or injuring trees which fringe or over-shadow natural streams or springs:

cutting or injuring trees, or brushwood, or gardens situate in any graveyard, *ziárat*, or other sacred place.

Copies of maps, &c., to be made for Forest Department.

27. The Settlement-officer shall cause to be prepared for the Forest Department such vernacular copies of his maps and records as shall be necessary to enable that Department to give effect to this Regulation without the necessity of constant reference to the settlement-records; and when any subsequent alterations are made in the area of forest-lands, similar documents shall be supplied to the Forest Department. The cost of preparing these records shall be paid by the Forest Department.

Date of operation of this Regulation.

28. Such provisions of this Regulation as are not already in force shall come into force from the first day of April 1873. As regards forest-land

reserved subsequently to that date, the provisions relating to reserved tracts shall have effect therein from the date of the Settlement-officer's order reserving them.

29. This Regulation shall cease to be in force on and after the first day of April 1874.[a]

REGULATION No. III of 1873.

Hazára Tenancy Regulation, 1873.

[*Published in the Gazette of India of 5th April 1873, p. 278, and in the Panjáb Gazette of 10th April 1873, p. 151.*]

WHEREAS the provisions of the thirty-third of Victoria, chapter 3, section 1, have been by Resolution of the Secretary of State for India in Council declared to be applicable to the Hazára District in the Panjáb; And whereas a draft of the following Regulation for the peace and good government of the said district has been proposed to the Governor General in Council by the Lieutenant-Governor of the Panjáb, together with the reasons for proposing the same; And whereas such draft and reasons have been taken into consideration by the Governor General in Council; And whereas the said draft has been approved of by the Governor General in Council and has received the Governor General's assent; The following Regulation is hereby published under the provisions of the said section :—

CHAPTER I.

PRELIMINARY.

Short title. Extent of Regulation.

1. This Regulation may be called "The Hazára Tenancy Regulation, 1873," and shall extend only to the Hazára District of the Panjáb.

Saving of decrees and of agreements between landlords and tenants.

2. Nothing contained in this Regulation shall affect the operation of any decree of Court under which a tenant holds, or of any agreement between a landlord and a tenant, when such agreement is in writing or recorded by the proper officer in the record of a regular settlement sanctioned by the Local Government.

All entries in such record made previously to the eighteenth day of November 1871, in respect of matters comprised in chapters III, IV, V and VI of this Regulation shall, when attested by the proper officer, be deemed to be agreements within the meaning of this section.

Interpretation-clause.

3. In this Regulation, unless there be something repugnant in the subject or context—

"Land."

"Land" means immoveable property for the time being subject to a settlement, whether regular or summary, of land-revenue;

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[a] But now see Regulation No. V of 1874.

"Rent." "Rent" means whatever is payable by an occupant of land on account of the use or occupation thereof;

"Arrear of rent." Any instalment of rent which is not paid on or before the day when the same becomes due, whether under a written agreement, or according to law or local usage, shall be deemed to be, for the purposes of this Regulation, an arrear of rent;

"Tenant." "Tenant" means any occupant of land liable to pay rent therefor, but does not include an under-proprietor;

"Landlord." "Landlord" means any person entitled to receive rent payable by a tenant;

"Grandfather," "uncle" and "grand-uncle." "Grandfather" includes the father of an adoptive father, "uncle" the brother of an adoptive father, and "granduncle" the adoptive father of an uncle;

"Representative." "Representative" means an heir or any other person taking by operation of law or by will a beneficial interest in the property of a deceased person;

"Section." And "Section" means a section of this Regulation.

4. Sections 10 to 17 inclusive of the Hazára Settlement Rules published in the Notification in the *Gazette of India*, Political, No. 31P, dated 5th January 1872, are hereby repealed.

CHAPTER II.

Of Rights of Occupancy.

Tenants having right of occupancy. 5. Every tenant who—

(*a*) has heretofore paid no rent and rendered no service, in respect of the land occupied by him, to the proprietor thereof for the time being beyond the amount of land-revenue and village-cesses for the time being chargeable thereon, and whose father and grandfather, uncle and granduncle, occupying the same land, have paid no rent and rendered no service in respect thereof to such proprietor, beyond the amount aforesaid;

(*b*) or who has involuntarily parted or shall involuntarily part with proprietary rights in any land otherwise than by forfeiture to Government; and who has continuously occupied or shall continuously occupy such land or any part thereof from the time of such parting;

(*c*) or who is at the date of passing of this Regulation the representative of a person who settled as a cultivator in the village in which the land occupied by such tenant is situate along with the founders of the village;

(*d*) or who is or has been Jágírdár of the village or any part of the village in which the land occupied by him as tenant is situate, and who has continuously occupied such land for not less than twenty years;

(*e*) or who either himself or through his predecessors has continuously occupied his holding from a period anterior to the summary settlement of 1847;

(*f*) or who has continuously occupied his holding from a period within the first summary settlement, paying no proprietary rent other than the share of land-revenue and cesses rateably chargeable to his holding—

shall be deemed to have a right of occupancy in the land so occupied.

Explanation 1.—"Predecessors" includes a person from whom an existing tenant has purchased.

Explanation 2.—Tenancies interrupted during Sikh Rule, and revived in the same village prior to the second summary settlement, are continuous within the meaning of this section. Similarly, exchanges of fields prior to the second summary settlement, and exchanges within the meaning of section 7, are not a breach of continuous tenure.

Exception 1.—No occupancy-rights shall be awarded to village-servants in respect of land held by them in remuneration for their customary services.

Exception 2.—No tenant shall be awarded a right of occupancy in land of which the proprietary title is owned by his own tribe, unless he has been excluded from proprietary heritage in the tribal system.

Exception 3.—No tenant shall be awarded occupancy-rights in respect of the land of groves and fruit-gardens originally planted by the landlord.

Presumption arising from entry in settlement-record.

6. Every tenant whose name appears in the records of a regular or revised settlement heretofore sanctioned by the Local Government, as having a right of occupancy in land which he or the person from whom he has immediately inherited has continuously occupied from the entry of his name or the name of such person (as the case may be) in such settlement, shall be presumed to have a right of occupancy in the land so occupied, unless the landlord shall in a regular suit prove—

Rebuttal of presumption.

(*a*) that within the thirty years immediately before the institution of such suit other tenants of the same class in the same or in adjacent villages have ordinarily been ejected from their holdings at the will of the landlord; or

(*b*) that the tenant has voluntarily admitted before any officer employed in making or revising a regular settlement of land-revenue, or before any officer authorized to attest the entries in the record of such settlement, that he is a tenant not having a right of occupancy, and that such admission has been recorded at the time by the officer so employed or authorized.

Right of occupancy in land taken in exchange.

7. If the tenant has voluntarily exchanged the land or any portion of the land formerly occupied by him for other land belonging to the same landlord, the land taken in exchange shall, for the purposes of this Regulation, be held to be subject to the same right of occupancy as the land given in exchange would have been subject to if the exchange had not taken place.

Suits to establish rights of occupancy on other grounds.

8. Nothing herein contained shall be deemed to preclude any person claiming a right of occupancy on any ground other than the grounds hereinbefore specified from suing to establish such right.

Non-acquisition of right of occupancy by lapse of time.

9. Except as herein expressly provided, no tenant shall be deemed to acquire a right of occupancy by mere lapse of time.

CHAPTER III.

OF RENT.

1.—Enhancement.

Decree for enhancement of rent.

10. No tenant shall, in the absence of an agreement or decree of Court to the contrary effect, be held liable, in a suit for arrears of rent in respect of any land, to pay rent exceeding in amount the rent payable by him in respect of such land for the last preceding agricultural year, unless a decree for the enhancement of the rent has been made as hereinafter provided.

The said Lieutenant-Governor shall have power from time to time, by notification in the official Gazette, to declare for the Hazára District the day on which the agricultural year shall, for the purposes of this section, be deemed to commence. *

Grounds of enhancement.

11. The Court may decree that the rent previously payable by any tenant having a right of occupancy may be enhanced on any of the following grounds:—

1st Ground.—That the quantity of land held by him as tenant exceeds the quantity for which he has previously been liable to pay rent.

Rule.—In this case the Court shall decree rent for the land in excess at the same rate as that payable in respect of the land of a similar description and with similar advantages held by him of the same landlord.

2nd Ground.—That the rate of rent paid by him is below the rate of rent usually paid in the same or adjoining villages by the same class of tenants having a right of occupancy for land of a similar description and with similar advantages.

Rule.—In this case the Court shall enhance his rent to the amount claimed by the plaintiff not exceeding such rate.

3rd Ground.—That the rate of rent paid by him is, if he belong to the class described in clause (*a*) of section 5, more than fifty *per centum*,

if he belong to any of the classes specified in clauses (*b*), (*c*) or (*d*) of section 5, or in clause (*e*) of section 5 and his occupation shall have continued

* The 15th of June—No. 584, dated 27th March 1874, *Punjáb Gazette*, 2nd April 1874, p. 93.

undisturbed from a time previous to the famine of 1783, more than thirty *per centum*,

and if he belong to the class specified in clause (*e*) of section 5 and his occupation shall not have continued undisturbed from a period anterior to the famine of 1783, or if he belong to the class specified in clause (*f*) of section 5 or in section 6, more than fifteen *per centum*,

below the rate of rent usually paid in the neighbourhood by tenants of the same class not having a right of occupancy for land of a similar description and with similar advantages.

Rule.—In this case the Court shall enhance his rent to the amount claimed by the plaintiff not exceeding such rate, less fifty *per centum*, thirty *per centum* or fifteen *per centum*, as the case may be.

Enhancement when tenant pays revenue or cesses.

12. If the revenue or any of the village-cesses is payable by the defendant, the rate to which his rent may be enhanced shall be reduced by the amount so payable.

Suit for re-enhancement.

13. After a decree has been passed under section 10, no suit shall lie against the defendant for re-enhancement of his rent until the expiration of five years from the date of such decree, unless in the meantime there has taken place a general revision of regular settlement under which the revenue payable for the land comprised in the decree has been increased.

2.—Abatement.

Grounds of right to abatement.

14. Every tenant having a right of occupancy shall be entitled to claim abatement of the rent previously paid by him on either of the following grounds, and on no others :—

(*a*) that the area of the land in his occupation has been diminished by diluvion or otherwise, or proved to be less than the quantity for which rent has been previously paid by him ; or

(*b*) that the productive powers of such land have been decreased by any cause beyond his control.

3.—Remission.

When Court may allow remission from rent.

15. Notwithstanding anything hereinbefore contained, it shall be lawful for the Court, in making a decree for an arrear of rent,

if the area of the land in the tenant's occupation has been diminished by diluvion or otherwise, or

if the produce of such land has been diminished by drought or hail, or other calamity beyond his control, to such an extent that the full amount of rent payable by him cannot, in the opinion of the Court, be equitably decreed,

to allow such remission from the rent payable by him as may appear equitable :

Provided that, if the tenant hold a lease for an unexpired term of not less than five years or have a right of occupancy in a revenue-paying estate, no such remission shall be allowed to him, unless a remission of revenue has been allowed on the same ground and by competent authority in respect of the same estate.

4.—Rent in Kind.

Commutation of rent in kind.

16. No commutation of rent in kind into rent in money, and no commutation of rent in money into rent in kind, shall take place without the consent of both the landlord and the tenant.

Division and appraisement of produce taken for rent.

17. Whenever rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other procedure of a similar nature, requiring the presence of the person entitled to the rent and of the cultivator, either personally or by their recognized agents,

if either party neglects to be present at the proper period, or

if a dispute arises between the parties regarding such division, estimate or appraisement,

either party may present an application to the Court, requesting that a proper person be deputed to make the division, estimate or appraisement.

Procedure in case of dispute.

18. On receiving such application and such sum, to be paid in the first instance by the applicant, as the Court thinks sufficient to defray the costs of serving the notice and making the award next hereinafter mentioned, the Court shall issue a written notice to the other party, requiring him to attend on the date and at the place specified in the notice, and shall depute a proper person to make the division, estimate or appraisement, and to direct by whom the costs of each party are to be paid.

The award of such person in respect of the said division, estimate or appraisement and costs, shall be final, unless within three months from the date thereof either party institutes a suit to set it aside.

CHAPTER IV.

Of Ejectment.

Ejectment of tenant with right of occupancy.

19. No tenant having a right of occupancy in any land shall be ejected therefrom, otherwise than in execution of a decree.

Such decree shall not be made, unless—

(a) at the date of the decree, a decree against such tenant for an arrear of rent in respect of such land has remained unsatisfied for fifteen days or upwards; or

(b) the landlord tenders to the tenant, in addition to any compensation to which he may be entitled under sections 27 and 37 (but subject to deduction

in respect of the arrears of rent, if any, payable by him), such compensation as the Court thinks fit, not less than fifteen, and not more than thirty, times the amount of the nett annual profits receivable by the tenant in respect of such land on an average of the three years next before the date of the tender.

Nothing in the last preceding clause shall be deemed to apply to a tenant belonging to any of the classes specified in section 5, or to a tenant when he, or the person from whom he has inherited, has continuously occupied such land for thirty years or upwards.

Ejectment of tenant without right of occupancy.

20. A tenant not having a right of occupancy may be ejected—

first, if a decree has been obtained against him for arrears of rent or for ejectment; or,

second, when he is not holding under an unexpired lease, or an agreement, or a decree of Court—by notice given by the landlord in manner hereinafter mentioned.

21. Notwithstanding anything to the contrary in this Regulation, no ejectment of a tenant shall be enforced except between the fifteenth day of March and the fifteenth day of June, unless, while the rent in respect of such land is in arrear, the tenant has failed to cultivate the land in accordance with the terms on which he holds it.

Notice of ejectment.

22. The notice of ejectment shall be written in the vernacular language of the district; it shall specify the lands from which the tenant is to be ejected; and it shall inform him that, if he means to dispute the ejectment, he must institute a suit for that purpose on or before the fifteenth day of April next after the service of the notice, or quit the land on or before that date.

The said Lieutenant-Governor shall determine what, for the purposes of this section, shall be deemed to be the vernacular language of the Hazára District.

Service of notice.

23. On the landlord's application to the Tahsíldár or other officer authorized to serve such notices, the notice shall be served by him on or before the fifteenth day of March, and the landlord shall pay the costs of service.

The notice shall, if practicable, be served personally on the tenant:

But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at some conspicuous place in the village wherein the land is situate.

Power to alter dates for suing to dispute, and for serving notice of ejectment.

24. The said Lieutenant-Governor shall have power from time to time, by notification published in the official Gazette not less than six months before such notification is to come into force, to fix, for the purpose of sections 22 and 23 in the Hazára District, any two days other than the days fixed in the same sections:

Provided that, between the days so fixed by notification, there shall be an interval of at least one month.

Cessation of tenancy on failure to contest notice.

25. If the tenant on whom such notice of ejectment has been served fails to institute, on or before the fifteenth day of April next after the service, or, in case the said Lieutenant-Governor fixes, for the purpose of section 22, any day other than the said fifteenth day of April, then on or before the day so fixed, a suit to contest his liability to be ejected, his tenancy of the land in respect of which the notice has been served shall be held to cease on that day.

Assistance to eject.

When assistance to eject may be given by Court.

26. If no such suit be brought, or if such suit be brought and dismissed and the landlord require the assistance of the Court to eject any person whose tenancy is alleged to have ceased under the provisions of section 22, he may apply for such assistance; and if the Court be satisfied that notice of ejectment was duly served on such person, it shall, subject to the provisions of section 19, give such assistance accordingly.

Nothing done by the Court under this section shall affect the right of any tenant to institute a suit against his landlord on account of illegal ejectment, and to recover compensation for the same.

Growing Crops.

Right of ejected tenant to retain ungathered products.

27. Any tenant ejected in accordance with the provisions of this Regulation shall retain his rights to the ungathered products of the rabi harvest:

Provided that, if the land has been sown or planted by the tenant after the service on him of the notice mentioned in section 20, he shall not be so entitled, unless, after such service, the landlord has expressly authorized him to continue to occupy the land.

CHAPTER V.

Of Relinquishment, Leases and Under-leases, Alienation and Succession.

1.—Relinquishment.

Relinquishment of land by tenant.

28. Every tenant shall be liable to pay the rent payable in respect of the land in his occupation for the ensuing agricultural year, unless, on or before the tenth day of January next before the commencement of that year, he gives notice to the landlord of his intention to relinquish such land before the commencement of such year, and relinquishes it accordingly, or unless the land has been let to any other person by the landlord.

Power to fix commencement of agricultural year

29. The said Lieutenant-Governor shall have power from time to time, by notification in the official Gazette, to declare, for the Hazára District, the day on which the agricultural year shall, for the purposes of section 28, be deemed

to commence,[a] and, in lieu of the said tenth day of January, to substitute, for the purposes of section 28, in the same district, such day as he thinks fit. for purposes of section 28.

30. If the tenant relinquishes the land according to his said notice, he shall be discharged from all liability to pay the rent which would otherwise have accrued due in respect of such land after the date of the relinquishment. Discharge of tenant

31. If the landlord or his recognized agent refuse to receive such notice, the tenant may apply to the Tahsíldár or proper officer, and a written notice shall thereupon be served by him on such landlord or agent, and the tenant shall pay the costs of service. Refusal to receive notice.

The notice shall, if practicable, be served personally on the landlord or agent:

But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the Hazára District, at some conspicuous place in the village wherein the land is situate.

2.—Leases and Under-leases.

32. Every tenant having a right of occupancy may let or under-let the land in his occupation or any part thereof: Right to let or under-let.

Provided that nothing in the former part of this section shall be deemed to affect any agreement on the part of a lessee that he will not, or will not without the previous consent of the lessor or his representative, under-let or part with the possession of the said land or any portion thereof. Saving of agreements not to let or sub-let.

33. Every person to whom land is let or under-let under section 32 shall, in respect of such land, and so far as regards the landlord and his representative, be subject to all the liabilities under this Regulation to which the lessor or under-lessor would have been subject in respect of such land, and so far as regards such landlord and his representative, in case the lease or under-lease had not been made. Liability of lessee and under-lessee.

3.—Alienation.

34. Any tenant having a right of occupancy claimable in accordance with the terms of any of the clauses of section 5 may alienate the land in his occupation, or any part thereof: Right of tenant to alienate.

Provided that, in every such case, the land or part aforesaid shall be offered for sale in the first instance to the landlord at the market-value, and shall not be alienated to any other person unless the landlord shall, for the space of one month, refuse or neglect to complete the purchase. Landlord's right of pre-emption.

Every other tenant may alienate the land in his occupation, or any part thereof, with his landlord's previous consent, but not otherwise.

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[a] The 15th June—No. 584, dated 27th March, 1874, *Panjáb Government Gazette*, 2nd April, 1874, p. 93.

Rights and liabilities of tenant's alience.

35. Every person other than the landlord to whom land is alienated under section 34 shall, in respect of such land, have the same rights and be subject to the same liabilities as the tenant making the alienation.

4.—Succession.

Succession to right of occupancy.

36. When a tenant having a right of occupancy in any land dies, his right shall devolve on his male lineal descendants (if any), and, failing such descendants, the right shall go to his male collateral relatives: provided that the common ancestor of the deceased and his said relatives shall have occupied such land.

As among descendants and collateral relatives claiming under this section, such right shall devolve and go as if it were land left by the deceased in the village in which such land is situate.

CHAPTER VI.

Of Compensation for Tenant's Improvements.

Tenant's right to compensation for improvements.

37. If any tenant, or, in the case of a tenant with a right of occupancy, the person from whom he has inherited, makes any such improvements on the land in his occupation as are hereinafter mentioned, the rent payable by him or his representative in respect of such land shall not be enhanced, nor shall he or his representative be ejected from the same land, unless and until he or his representative, as the case may be, has received compensation for the money or labour, or both, expended in making such improvements, by him, or the person from whom he has inherited, or whom he represents, within thirty years next before the date of such enhancement or ejectment.

"Improvements" defined.

38. The word "improvements," as used in section 37, means works by which the annual letting-value of the land has been, and at the time of demanding compensation continues to be, increased, and shall comprise—

1st.—the construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage, and for protection against floods; the construction of wells, the reclaiming and clearing of waste-lands and other works of a like nature:

2nd.—the renewal or reconstruction of any of the foregoing works, or such alterations therein, or additions thereto, as are not required for maintaining the same, and which increase durably their value.

Compensation how made.

39. Such compensation may, at the option of the landlord or his representative, be made—

(*a*) by payment in money;

(*b*) by the grant of a beneficial lease of the land by the landlord or his representative to the tenant or his representative; or

(*c*) partly by payment in money, and partly by the grant of such lease as aforesaid.

Provision for difference as to amount or value of compensation.

40. In case of difference as to the amount or value of the compensation tendered, either party may present an application to the Court, stating the matter in dispute and requesting a determination thereof.

Notice of such application shall be served on the other party by the proper officer, and the applicant shall pay the costs of service.

On receiving such application, the Court shall, after taking such evidence as the parties or either of them may adduce, and after making such further enquiry (if any) as it may deem necessary, determine (as the case may be) the amount of the payment, or the terms of the lease, or both:

Provided that, in determining such amount or value, the Court shall take into account any assistance given by the landlord, either directly by money, material or labour at the time of making such improvements, or indirectly by subsequently allowing the tenant to hold at a rate of rent more favourable than the rate at which he otherwise would have held.

Tender of lease for twenty years to bar right to claim compensation.

41. If in any case a landlord tenders to a tenant a lease of the land in his occupation, for a term of not less than twenty years from the date of the tender, at the annual rent then paid by the tenant or at such other annual rent as may be agreed upon, such tender, if accepted by the tenant, shall bar any claim by him or his representative in respect of improvements previously made on such land by the tenant or the person from whom he has inherited.

CHAPTER VII.

Of Procedure.

Civil Courts to hear cases under certain sections.

42. Cases cognizable under sections 5, 6, 11, 14, 19, 20 and 25 shall, unless otherwise provided for by any law for the time being in force, and subject to the provisions of section 21 of Act No. XIX of 1865[a] (*to define the jurisdiction of the Courts of Judicature of the Panjáb and its dependencies*), be heard in the Civil Courts other than the Courts of Small Causes, unless when such Courts of Small Causes shall have been specially empowered by the Local Government, under Act No. XI of 1865, section 6, to hear such cases.

Applications under certain sections to be proceedings on revenue-side.

Applications under sections 17, 23, 26 and 31 shall be deemed to be proceedings on the revenue-side; they shall be subject to the rules of procedure for the time being in force in such cases; and all orders on such applications shall be appealable to the Financial Commissioner of the Panjáb.

Saving of procedure for recovery of rent.

43. The procedure now in force in the Panjáb for the recovery of rent shall, except in so far as it is inconsistent with the provisions of this Regulation, continue to be in force.

[a] Repealed by Act No. XVII of 1877.

Confirmation of proceedings of Settlement-officers.

44. All proceedings of officers of Government in making or revising, prior to the passing of this Regulation, settlements of land-revenue, shall, so far as such proceedings are consistent with the provisions of this Regulation, and subject to appeal and revision when an appeal or a revision is provided, be deemed to have been taken in accordance with law.

REGULATION No. IV OF 1873.

Panjáb Frontier Regulation Amendment Regulation, 1873.

[*Published in the Gazette of India of 12th July 1873, p. 631, and in the Panjáb Gazette of 17th July 1873, p. 241.*]

WHEREAS the Secretary of State in Council has, by Resolution in Council, declared the provisions of the thirty-third of Victoria, chapter three, applicable to the Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáíl Khán and Dera Gházi Khán;

And whereas the Lieutenant-Governor of the Panjáb has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same;

And whereas the Governor General in Council has taken such draft and reasons into consideration, and such draft has been approved of by the Governor General in Council, and has received the Governor General's assent:

In pursuance of the direction contained in the first section of the said thirty-third Victoria, chapter three, the said draft is now published in the *Gazette of India*, and will be published in the local Gazette, and will thereupon have the force of law:—

1. The sixth section of the Panjáb Regulation for the peace and government of the Districts of Huzára, Pesháwar, Kohát, Bannu, Dera Ismáíl Khán and Dera Gházi Khán is repealed.

2. Whenever any person or persons shall be accused of any offence, if, in the opinion of the Deputy Commissioner, it is inexpedient that the question of the guilt or innocence of such person or persons, or of any of them, should be tried according to the ordinary procedure, the Deputy Commissioner may cause such question to be referred to the decision of Elders, convened according to the Pathán or Beluch usage as he may in each case direct,

and may cause their decision thereon to be carried into effect as if it were a sentence of a Court of law:

Provided that no decision imposing any penalty other than a fine shall be carried into effect as aforesaid.

The powers conferred by this section may be exercised notwithstanding any proceedings, short of actual conviction or acquittal of the accused person against

whom they are exercised, taken or recorded under the ordinary procedure, and as against some of the persons jointly accused of an offence, though the ordinary procedure is followed in the case of others.

REGULATION No. VII OF 1873.

Panjáb Frontier Crossing Regulation, 1873.

[*Published in the Gazette of India of 20th December 1873, p. 1014, and in the Panjáb Gazette of 25th December 1873, p. 425.*]

WHEREAS by a Resolution passed by the Secretary of State in Council on the 6th day of October 1870, the provisions of the 33rd of Vic., chapter 3, section 1, were declared applicable to the Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáíl Khán and Dera Gházi Khán: And whereas the Lieutenant-Governor of the Panjáb has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same; And whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent: In pursuance of the direction contained in the said section, the said draft is now published in the *Gazette of India*, and will be published in the local Gazette, and will thereupon have the force of law.

Regulation.

1. No person duly warned in the manner hereinafter described shall pass out of British territory across the Frontier of the Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáíl Khán and Dera Gházi Khán.

2. A warning for the purpose of this Regulation, if addressed to an individual, shall be in writing under the hand of the Commissioner of the Division, or of the Magistrate of the District, within which such individual dwells or may be found, and shall be served upon him in such manner as the Local Government may from time to time prescribe; if addressed to a class of persons or to the public generally, the previous sanction of the Governor General in Council must be obtained, and this warning shall be notified in the *Panjáb Government Gazette*, and be otherwise published in such manner as may be directed by the Local Government.

3. Whoever disobeys, or attempts to disobey, or abets, within the meaning of the Indian Penal Code, another person in disobeying or attempting to disobey, the prohibition contained in the first section of this Regulation, shall be punishable with fine not exceeding five hundred rupees.

The provisions of sections sixty-four, sixty-seven, sixty-eight, sixty-nine and seventy of the Indian Penal Code shall apply to all fines imposed under this section.

4. If any person disobeys, or attempts to disobey, or abets, within the meaning of the Indian Penal Code, another person in disobeying or attempting to disobey, the said prohibition, the Local Government may order him to remove to such place under the government of the Lieutenant-Governor of the Panjáb as the Local Government in each case directs.

5. If any person contravenes any such order, the Commissioner of the Division or Magistrate of the District within which he is dwelling or may be found, may cause him to be apprehended and detained in custody until he is released upon such conditions as the Local Government thinks fit.

6. If the Commissioner of the Division or Magistrate of the District within which any person (whether an European British subject or not) is dwelling or may be found, reasonably suspects that he intends to disobey the prohibition contained in the first section of this Regulation, such Commissioner or Magistrate may require such security for his good behaviour, for a period not exceeding six months, as to the Commissioner or Magistrate may seem sufficient.

The provisions of the Code of Criminal Procedure, sections five hundred and seven to five hundred and sixteen (both inclusive), shall apply, *mutatis mutandis*, to all cases under this section.

REGULATION No. I of 1874.

Panjáb Frontier Grazing Regulation, 1874.

[*Published in the Gazette of India of 21st February 1874, p. 114, and in the Panjáb Gazette of 12th March 1874, p. 105.*]

WHEREAS by a Resolution passed by the Secretary of State in Council on the 6th day of October 1870, the provisions of the 33rd of Victoria, chapter 3, section 1, were declared applicable to the Districts of Bannu, Dera Ismáíl Khán and Dera Gházi Khán; And whereas the Lieutenant-Governor of the Panjáb has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same; And whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent:

In pursuance of the direction contained in the said section, the said draft is now published in the *Gazette of India*, and will be published in the local Gazette, and will thereupon have the force of law.

1. This Regulation may be called "The Frontier Grazing Regulation, 1874."

2. In this Regulation "cattle" includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies and mules.

3. No cattle, sheep, asses or goats shall, except in the cases provided for in section 9, be grazed to the west of the frontier military road in the Districts of Bannu, Dera Ismáil Khán and Dera Gházi Khán, without being accompanied by an armed guard of not less than the following strength, namely :—

(*a*) for sheep, goats and asses, where the number does not exceed one hundred, one man; for every additional hundred or part of a hundred, one man :

(*b*) for cattle, where the number does not exceed one hundred, two men; for every additional hundred, or part of a hundred, two men.

Where, as in the Marwat District of Bannu, the frontier military road skirts the foot of the hill-ranges in independent territory, no cattle, sheep, asses or goats, except as provided for in section 9, shall be grazed on the lands of any village which immediately adjoins the frontier unless accompanied by an armed guard of the strength already mentioned.

4. Any cattle, sheep, asses or goats discovered by the patrols grazing within the above-mentioned limits unaccompanied by the guard prescribed in the preceding section, shall be seized and sent to the nearest Police-station.

5. No animals taken to a Police-station under the preceding section shall be released, except on payment of the following penalties in addition to all charges incurred in seizing and keeping them :—

for each camel	...	two annas ;
„ „ head of cattle other than camels, and for each ass	...	one anna ;
„ „ sheep or goat	...	three pies.

6. When animals which have been carried off owing to the gross negligence of the owners and their failure to comply with the requirements of this Regulation, are subsequently recovered by the Police or by other officers of Government, the following penalties shall be exacted on their restoration to the owners in addition to all charges incurred in recovering and keeping them :—

for each camel	...	five rupees ;
„ „ head of cattle other than camels	...	one rupee ;
„ „ ass	...	eight annas ;
„ „ sheep or goat	...	two annas.

7. If the owner of any animals seized or recovered under this Regulation, or his agent, appear and refuse to pay the penalties and charges incurred, the animals, or as many of them as may be necessary, shall be sold

under the orders of the Deputy Commissioner to defray the said charges and penalties as nearly as may be in accordance with the rules prescribed for impounded cattle by section 16 of The Cattle Trespass Act, 1871.

8. If any animals seized or recovered under this Regulation be not claimed within seven days from the date of their being so seized or recovered, they may, after proclamation of the number and description of the animals, the place where they were seized or recovered, and the Police-station to which they have been taken, be sold under the orders of the Deputy Commissioner as nearly as may be in conformity with the rules prescribed for impounded cattle by section 14 of The Cattle Trespass Act, 1871. The surplus-proceeds of the sale, after deducting all penalties and charges, shall be held in deposit for three calendar months, and, if no claims thereto be preferred and established within that period, shall at its expiry be at the disposal of the Local Government.

9. When tracts of territory, hill and plain, on both sides of the frontier-line in the districts before-mentioned are occupied by members of the same tribe (as in the cases of the Ashtaránís in Dera Ismáíl Khán, and of the Ahmadzai Wazíris in Bannu), the Deputy Commissioner of the District may in his discretion accept written guarantees from the headmen of such tribes for the security of cattle, sheep, asses or goats at graze on the border, should such headmen represent that armed guards are unnecessary; and in the event of his accepting such guarantees, the tracts in question shall be exempt from the operation of sections 3, 4, and 5 of this Regulation. Information of such exemptions from the operation of the said sections shall be invariably conveyed to the officer commanding the militia and outposts.

REGULATION No. II OF 1874.

Hazára Settlement Rules Amendment Regulation, 1874.

[*Published in the Gazette of India of 7th March 1874, p. 134, and in the Panjáb Gazette of 12th March 1874, p. 107.*]

WHEREAS the Secretary of State in Council has, by Resolution in Council, declared the provisions of the thirty-third of Victoria, chapter three, applicable to the Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáíl Khán and Dera Gházi Khán;

And whereas the Lieutenant-Governor of the Panjáb has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same;

And whereas the Governor General in Council has taken such draft and

reasons into consideration, and such draft has been approved of by the Governor General in Council, and has received the Governor General's assent:

In pursuance of the direction contained in the first section of the said thirty-third of Victoria, chapter three, the said draft is now published in the *Gazette of India* and will be published in the local Gazette, and will thereupon have the force of law:—

1. This Regulation may be called "The Hazára Settlement Rules Amendment Regulation." It extends to the District of Hazára only.

2. The third, fourth and fifth of the Rules entitled Hazára Settlement Rules, and set forth in clause 13 of the Panjáb Regulation published in Foreign Department Notification No. 31P, dated 5th January 1872, shall be repealed.

3. Act XV of 1877 (the Indian Limitation Act, 1871,[a]) shall have the same force in the District of Hazára as in the other Districts of the Panjáb.

4. Nothing hereinbefore contained applies to claims instituted under the Hazára Settlement Rules before the date on which this Regulation comes into force or admissible under the 64th of the said Rules.

5. On and from the date on which this Regulation comes into force, Nos. 49 to 53 of the said Rules, both inclusive, shall be repealed.

REGULATION No. III OF 1874.

Hazára Tenancy Regulation Amendment Regulation.

[*Published in the Gazette of India of 4th April 1874, p. 164, and in the Panjáb Gazette of 9th April 1874, p. 133.*]

WHEREAS the Secretary of State in Council has, by Resolution in Council, declared the provisions of the thirty-third of Victoria, chapter three, applicable to the Districts of Hazára, Pesháwár, Kohát, Bannu, Dera Ismáíl Khán and Dera Gházi Khán:

And whereas the Lieutenant-Governor of the Panjáb has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same:

And whereas the Governor General in Council has taken such draft and reasons into consideration, and such draft has been approved of by the Governor General in Council, and has received the Governor General's assent:

In pursuance of the direction contained in the first section of the said thirty-third of Victoria, chapter three, the said draft is now published in the

[a] See Act No. XV of 1877, s. 2.

Gazette of India, and will be published in the local Gazette, and will thereupon have the force of law:—

1. This Regulation shall extend only to the Hazára District of the Panjáb.

2. Section 9 of the Hazára Tenancy Regulation, 1873, shall be read and construed as though the second clause of the section had not been enacted.

3. This Regulation shall be read with, and taken as part of, Hazára Tenancy Regulation, 1873.

REGULATION No. V OF 1874.

Hazára Forest Regulation Continuance Regulation, 1874.

[*Published in the Gazette of India of 26th December 1874, p. 618, and in the Panjáb Gazette of 31st December 1874, p. 408.*]

WHEREAS the Regulation for the conservancy of trees and forest-lands in Hazára, published under the Notification by the Government of India in the Foreign Department, No. 35R, dated the 25th February 1873, has ceased to be in force, and it is expedient to revive and continue the operation of the said Regulation for a time:

A draft of the following Regulation, together with the reasons for proposing the same, having been proposed by the Lieutenant-Governor of the Panjáb to the Governor General in Council, and having been taken into consideration and approved by the Governor General in Council, and having received the Governor General's assent, is now published with reference to 33 Victoria, chapter 3, section 1:—

The Regulation for the conservancy of trees and forest-lands in Hazára, published under the Notification by the Government of India, in the Foreign Department, No. 35R, dated the 25th February 1873, shall be deemed to be and to have been in force in Hazára District from the first day of April 1874, and shall continue in force in the said District until expressly repealed.

REGULATION No. VII OF 1874.

Panjáb Frontier Jágír Revenue Collection Regulation, 1874.

[*Published in the Gazette of India of 16th January 1875, p. 39, and in the Panjáb Gazette of 21st January 1875, p. 29.*]

WHEREAS it is expedient to permit certain assignees of land-revenue in the Trans-Indus Districts of the Panjáb to continue to collect the land-revenue in kind instead of in cash;

And whereas a draft of the following Regulation, together with the reasons for proposing the same, has been proposed to the Governor General in Council by His Honour the Lieutenant-Governor of the Panjáb, and has been considered and approved by the Governor General in Council, such Regulation is now published for general information, as having the force of law under Statute 33 of Victoria, chap. 3, section 1 :—

1. This Regulation may be called the "Panjáb Frontier Jágír Revenue Collection Regulation, 1874." It extends to the Districts of Pesháwar, Kohát, Bannu, Dera Ismáíl Khán and Dera Gházi Khán.

2. The said Lieutenant-Governor may by order permit any assignee of land-revenue in any part of the above-named districts to collect the whole or any specified part of the land-revenue assigned to him in kind instead of in cash from the proprietary cultivators in his jágír estates, provided that such assignee of land-revenue has heretofore been permitted to collect in kind the whole or such part as aforesaid of the said revenue.

3. The permission mentioned in the last section may be granted irrespective of the acquiescence of the said proprietary cultivators. But the share of the produce so to be collected by the jágírdár shall be specified by the order granting the permission, and shall be the estimated equivalent of the cash-assessment fixed on the principles of assessment of the land-revenue prescribed for the time being in the districts above-named.

4. The said Lieutenant-Governor may at any time at his discretion cancel any permission granted under section 2.

5. No Court shall take cognizance of any claim to set aside any order for the time being in force permitting an assignee of land-revenue to collect revenue in kind, or specifying the share of the crop which he may collect as such assignee.

REGULATION No. II OF 1876.

A Regulation for the Peace and Government of the Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáíl Khán and Dera Gházi Khán.

[*Published in the Gazette of India of 8th July 1876, p. 359, and in the Panjáb Gazette of 10th August 1876, p. 351.*]

WHEREAS it is expedient to provide for the peace and good government of the districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáíl Khán and Dera Gházi Khán, in manner hereinafter appearing; It is hereby enacted as follows :— Preamble.

1. This Regulation may be called "The Panjáb Frontier Regulation, 1876": Short title.

Local extent.

It shall extend to all the said districts;

Commencement.

And it shall come into force on being published in the *Gazette of India* and in the *Panjáb Government Gazette.*

Arrest, without warrant, of person who has committed, or who intends to commit, an offence punishable under section 498 of the Penal Code.

2. When there is reason to believe

(*a*) that any person has committed an offence punishable under section 498 of the Indian Penal Code, or

(*b*) that any person designs to commit such an offence, and that the commission of such offence cannot be prevented otherwise than by his arrest,

the officer in charge of a Police-station may, without orders from a Magistrate, and without warrant, arrest such person if required so to do by the husband of the woman concerned, or by the person (if any) having the care of her on behalf of such husband, or, in the absence of such husband and of such person as last aforesaid from the village in which such woman resides, by the headman of such village.

Disposal of arrested person.

3. Every Police-officer making an arrest under this Regulation shall, without unnecessary delay, take or send the person arrested before the nearest Magistrate having jurisdiction in the case, to be dealt with according to law.

Government Central Press.—No. 165 L. D.—20-5-76.—720.